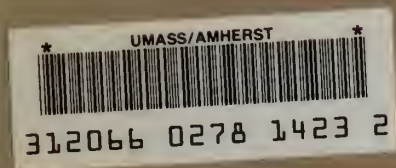


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*A Transcript of the Proceedings
of the March 27, 1990 Seminar*

LAND USE:

FORGOTTEN KEY TO QUALITY OF LIFE

University
of Massachusetts
at Boston

May 1990

932/148

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LAND USE: FORGOTTEN KEY TO QUALITY OF LIFE

*A Seminar Presented by the
John W. McCormack Institute of Public Affairs
and the
Massachusetts Historical Commission*

Tuesday, March 27, 1990

AGENDA

Faculty Club, 11th Floor, Healey Library

8:30 A.M.

Welcome &

Introductory Remarks

EDMUND BEARD

Director, McCormack Institute

IAN MENZIES

Senior Fellow, McCormack Institute

Program Moderator

8:45 A.M.

"A VISION FOR THE FUTURE"

Opening Address

CARMEN BUELL

Member, Mass. House of Representatives

House Chair, Special Commission on

Growth and Change

Questions from the Floor

9:30 A.M.

Session I

ZONING: IS IT WORKING?

ANTHONY PENSKI

Assistant Attorney General

TOWN CENTERS vs MALLS

JAMES BRADLEY

State Preservation Officer

***LOCAL PLANNING FROM
AN INSTITUTIONAL PERSPECTIVE***

MICHAEL ALMADA

Director of Planning

City of Laconia, NH

former Marshfield Town Planner



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***MAPC 's METRO PLAN 2,000 -
ANOTHER APPROACH***

***DAVID SOULE
Executive Director
Metropolitan Area Planning Council***

Questions from the Floor

***10:45 A.M.
Break***

***11:00 A.M.
Session II***

***THE ROLE AND NEED FOR
A CHIEF STATE PLANNER***

***FRANK KEEFE
State's first & only Chief Planner***

***THE CAPE COD COMMISSION:
A REGIONAL ROLE MODEL?***

***ARMANDO CARBONELL
Executive Director
Cape Cod Planning & Economic
Development Commission***

***THE FIGHT GOES ON: HOW TO PROTECT
THE ENVIRONMENT***

***GREGOR MCGREGOR
Environmental Lawyer***

Questions from the Floor

***12:30 P.M.
Luncheon***

***12:45 P.M.
Introduction of Luncheon Speaker***

***SHERRY PENNEY
Chancellor, University of Mass. at Boston***

***NEEDED: A CONSTITUENCY FOR LAND USE
Luncheon Address***

***PAUL TSONGAS
former Member
United States Senate***

***1:30 P.M.
Closing Remarks***

IAN MENZIES

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EDMUND BEARD: Good morning. My name is Ed Beard, the Director of the McCormack Institute of Public Affairs, here at the University of Massachusetts at Boston. On behalf of our Chancellor, Sherry Penney, I'd like to welcome you to our campus. I believe you'll all have a chance to meet Chancellor Penney at lunch. The McCormack Institute is, of course, named for the former Speaker of the United States House of Representatives, John W. McCormack, who represented the Congressional District in which this campus lies for 42 years, the last nine of which as Speaker of the United States House. The McCormack Institute is a public policy research center. We have a particular, although not exclusive, interest in working on issues of local concern, of concern to Boston, to the Commonwealth, and to the New England region. So this conference on land use policy and land use opportunities in Massachusetts is particularly relevant. It's the kind of thing that we're most pleased to do. We are very fortunate at the McCormack Institute to have with us Ian Menzies. Virtually all of you know Ian, or at least know of his reputation as a former managing editor and then long time columnist for the Boston Globe. It was Ian's idea to put this event together and he did so, ably assisted by Kathleen Foley, who is around here somewhere. So, without further ado, I would like to pass the show over to the man who put it all together, who is to be congratulated for it, Ian Menzies.
(applause)

IAN MENZIES: Thank you, Ed, and good morning, everyone. I'm really impressed. This is a very early start and I realize a lot of people have had to travel quite a distance and I'm sure people will be trickling in as we go along. I'm sure you've all heard of the Northwest Airlines crew who were recently put under citizen's arrest for allegedly flying three sheets to the wind, but have you heard the sequel? Now I'm told when Northwest passengers are asked by the stewardess what they'd like to drink, they chorus, "we'll have what the captain's having." Having that, having what someone else is having is, incidentally, not unlike the hilarious remark in the orgasmic restaurant scene in the movie "When Harry Met Sally." Those who've seen the movie can describe the scene to those who haven't. The only reason I bring this up is that there isn't anything very sexy about land use, as I discovered each time I wrote on the subject for the Globe. Maybe what we need are some really good land use jokes to get the public's attention, although I'm not suggesting that city and town planners here today try in their own inimitable way to emulate the performance of the Northwest pilots.

I wanted to say a few introductory words about this seminar, but evidently Representative Buell's schedule was suddenly contracted and she has to be up at the State House by 9:30 A.M. So I'm going to go right ahead and introduce her and also ask Kathy Bartolini to stand by for any questions that may follow. Representative Buell,

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as several of you know, is from Greenfield, Mass., and was House Chair of the Commission on Growth and Change. She's also a member of the House Ways and Means Committee and was the driving force behind the formation of the commission. Rep. Buell, who has a BS in Sociology from Springfield College and a Master's in Regional Planning from UMass/Amherst, is also an active member of the Legislature's Rural Caucus, the Mass. Caucus of Women Legislators, the Special Commission on Water Supply, the Special Commission on Tax Reform and the Special Commission on Pay Equity. She is, in short, a special person. Rep. Carmen Buell.
(applause)

CARMEN BUELL: Thank you very much, Ian. It's wonderful to be here. Coming from Greenfield, I always consider the experience of traveling on the Southeast Expressway as quite a cultural shock. I want to apologize right up front for having to leave early. I serve, I've been appointed by Chairman Volk to form a subcommittee on Medicaid on the Ways and Means Committee and if anybody has been following the budget, you know, parenthetically, if you've been looking at the state budget, Medicaid is one of those "budget busters" that is driving the deficit. And I felt that, while it may not seem like much of a connection of Medicaid to land use planning and the kinds of recommendations we have in our report, there really is a very close connection. If we don't control Medicaid spending, we're going to have no money to do anything else. And we're certainly not going to have the kind of money that we need to assist our cities and towns in the recommendations that we have here in our Commission report. So there is a connection, but I do apologize for having to leave, but the issue of Medicaid is something that has to be tackled right away and I do have responsibility to be at that meeting. Secondly, before I get into my comments about the report, I just want to point out a person who has participated in the Commission and has been involved in so many environmental issues, and who is leaving us, Kelly McClintock, who is here in the front row. Kelly, just raise your hand. It's not often that I publicly get to comment on an advocate who has really been a friend and someone who I've looked to in getting good information from the environmental lobby. We will miss you, Kelly, and we thank you for your work on the Commission as someone who has kept our nose to the grindstone and made sure that we tackled the issues that are so important to the environmental communities. So I wish you well and thank you.

The Growth Commission Report, and I hope each of you has been able to get a copy of the report because it's important that you at least have it in your possession and get a chance to look through it and read it. It's a little bit unfair to ask you to comment on it when you haven't even had a chance to look at it. So I'm going to just quickly run through it with you. Also, I noticed that the yellow sheet which was distributed

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announcing this conference contained a list of discussion topics. The first one was how tough is the Commission report on growth and change. Well, I'll let you decide how tough you think it is. It is something that those of us who are members of the Commission, and there are several people here who either are formal Commission members, in addition to Kathy Bartolini, or other people who have really contributed a great deal of time to the Commission so that if there are questions or discussions about the Commission report and the Commission's work and where we are going from here, after I leave, rest assured that there will be people here who can provide you with information and answers to your questions.

The Commission spent about 18 months. We had ten public hearings very early in our work in order to talk to real people about their doing the real job of planning and also with the development community. We came back to the State House, divided into various committees, held focus sessions with, I think, every interest group that we could find and who requested a meeting with the Commission, and then got down, rolled up our sleeves and really worked very, very hard in producing this document which I consider just the first step in dealing with land use issues in the Commonwealth, and really moving forward on a positive yet rational planning process to deal with growth and development. The one thing I want to emphasize is that this report and the work that we did is not a "no growth" document. We believe very strongly that growth and change is inevitable. It can be a very positive force and, therefore, our underlying philosophy was that the key to the economic picture of Massachusetts is inextricably linked to the quality of life in our communities, and the quality of life in our communities is inextricably linked to land use planning. We, our underlying philosophy states that we believe we are active stewards of our resources, that the greatest benefit for present generations should be not only to derive those benefits for us but in maintaining the quality and the ability that we can to meet the needs and aspirations of future generations. It is basically a philosophy of sustainable growth and sustainable economic development and we have embraced that as our underlying foundation in terms of how we see land use planning proceeding and how economic development should occur in Massachusetts.

Basically there are three themes that emerged from our work. One, was that we must plan for the future and while planning for the future implies a lot of things to a lot of different people, we feel that it's a very positive approach and something that really needs to be done in a methodical, rational, well thought out way. The second theme that emerged is that we need to define where development will take place, where it's positive, where it's good for it to take place, identify those areas and then also designate where there should be no development. Thirdly we believe we must invest in the future and from a land use perspective that means capital investments and protection investments. Now a lot of people say well, gee, you know, there's an economic slowdown. We are

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not in an economic boom. What do you think any of this has in relation to what's going on right now? And obviously the initial seeds of the Growth Commission began when many of our communities were experiencing rapid and expansive growth, but I believe, and I think the Commissioners believe, that regardless of whether you are in an economic boom time, or an economic slow time, planning is absolutely essential. And actually when you are in a slow time it's probably the best time to do planning. And because we have limited public and private dollars, the pressures may even be greater in terms of people running around trying to get development here, trying to get it there, in order to have economic security within their communities. And so we feel that this is really the best time to be talking about the kinds of planning recommendations we have. What we did first was to develop, as I said, to go out and identify problems because in order to start crafting solutions and recommendations you had to clearly identify what people across the Commonwealth felt were problems dealing with land use. And we basically have about five or six problems and these are all outlined or discussed in length in the report. I just want to highlight them.

First of all was the loss of community character everywhere we went whether it was in the Berkshires or down at the Cape or Southeast Mass or Northeast Mass. People were feeling that they were losing the ability to define and control what their community character was. The second major problem that people were identifying was economic opportunity and the fact that in many communities, and this was especially from those people who were working economic development issues, that we have not really done a good inventory and made good decisions about where we can have good economic growth to provide that economic opportunity for the citizens of those cities and towns. Obviously affordable housing is an issue everywhere, whether you are in a rural small town community which I represent, or you are in the heart of an urban area. Affordable housing is an issue that is facing everybody. Deterioration of natural resources is something that we heard over and over again, aquifer water supplies being contaminated, the stripping and the loss of open space and agricultural lands and a whole host of other issues dealing with coastal issues as well as inland issues. So the deterioration of natural resources was a key problem we identified across the Commonwealth. Another one that really was something that we spent a lot of time on in coming up with our recommendations is the whole issue of coordination among communities and capacity within communities for planning, and that was articulated both from the development community who had to deal with the volunteer boards in so many of our communities and also from those individuals serving on volunteer boards and the kind of pressures that they had. We came back and developed goals and policies. Now for those of you who are planners, I know there is a whole, and I got my Masters in regional planning and I never could figure out what the difference between policies and

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goals were and then you had to move to objectives and you know, some are measurable, some are general, all this kind of stuff. But we felt very strongly that we had to have some overriding structure of what we believe our philosophy, our goals were, our policies as a Commonwealth, and so we spent a lot of time working on articulating those and we have come up with eleven goal policies, whatever you want to call them, statements. And those, also, are defined and discussed in great length in the report.

I just want to go over very quickly the eleven goals. First of all, Goal 1 is to channel growth in developed areas. Goal 2 is to deal with the issue of economic opportunity by creating land use patterns that identify appropriate areas for industrial and commercial activity. Goal 3 is to identify and protect natural and cultural resources through preservation, conservation enhancement and restoration. Goal 4 is to enhance access to natural and cultural resources. Goal 5 is to deal with the issue of housing for all by requiring a very pro-active approach by municipal governments, by regions, and by the state. Goal 6 is that development should proceed at a rate commensurate with infrastructure and capital facilities. Goal 7 is to deal with the whole issue of transportation. To have transportation decisions directly linked with land use decisions. Goal 8 is to establish and maintain an integrated, comprehensive land use management process that integrates the state, the region and the local communities. Goal 9 is the coordination in all levels and partnership with the public and with the private sector. Goal 10 talks about technical assistance, the whole issue of capacity development within communities. And Goal 11 states that we believe decisions should be made at the most local level possible commensurate with the impact of the development. Those are our eleven goals and now those might not be considered in terms of how tough is the Commission's Report to be tough as far as you know, things that you can sink your teeth in and come out with action plans. But in order to frame the rest of our work, we believe that these goals do articulate the broad range of issues that have to be dealt with in our following work that's in the Commission and also what we are planning to do further on. We then spent a lot of time, most of the time on our action steps. And those start on Page 37 and go until the end of the report. And I just want to go over a few of those just to give you the highlight of what we consider to be the important elements of our action plan.

First of all, we are going to be drafting a statewide land use planning and management law. That is our next step, although the Commission is defunct. We have no staff. We have a lot of very eager volunteers to continue the work that we started with this Commission. The elements of the new statewide land use planning and management law will include the adoption of our eleven goals to mandate local comprehensive plans. The local comprehensive plans will have required elements and

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the required elements are listed in Appendix A on page 47. The comprehensive plans also will include consistency, will identify critical areas, will deal with developments of regional impact, conflict resolution and citizen participation. We also are calling for a very forceful and strong level of regional authority to be established, starting and developing out of the existing regional planning agencies and moving in a much stronger and more -- well it will have more authority similar to, and Armando is here and will be discussing the Cape Cod Commission law, but the regional entity will be very similar to, at least the way we've recommended, to the regional entity that will be existing on Cape Cod, if the voters on the Cape pass it. And then we also have called for state action and the reinstitution of the Office of State Planning, and I understand Frank Keefe is here, is going to be here. He was -- there he is, back there. And he might want to comment about the Office of State Planning. But we believe very strongly that that office should be brought back to eminence and be very active in the whole issue of land use planning. I think it's important that you also understand that we are making a very strong statement of having local planning capacity as comprehensive planning that we are mandating to be integrally linked with zoning so that there will be a legal connection between planning and zoning which does not exist at the present time. And we have outlined how that will proceed.

Now there are certain areas that are left rather fuzzy and this may be the area where we can be charged for not being tough. These areas are funding this whole thing. The second is grandfathering and the whole issue of vested rights and then some of the other very nitty gritty specific zoning and land use laws that are existing on the books and how we are going to change them. Funding obviously is a very problematic thing considering the plight of the state budget and the outlook for resources, but we are going to be tackling that issue and looking to find ways that we will be able to fund the comprehensive plan that we are recommending be mandated at the local level. We will be dealing with grandfathering, working more on that, along with the joint committee on local affairs, the legislative joint committee on local affairs and some of the others.

With that I am going to have to close because I do have to get back. I will take a few questions before I leave and then again I want to apologize for having to leave but Medicaid calls and I need to get back to the State House so I hope your day is very productive. As I said each of you should have a copy of the report. We will be moving forward. We are going to be drafting legislation and there is going to be a group of lawyers who, I hope, are going to contribute their time, and I've already gotten volunteers from the legal field to help us draft this. We will, and I am, and members of the Commission are going around to all the regional planning agencies in order to present the report. We are looking for input. As I say, we consider this a first step but remember that the following steps that are going to be taken are going to be taken by

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people who are volunteering their time and who are working on this because they believe so strongly. We are also going to be connecting with "A Thousand Friends of Massachusetts" and Katharine Preston, the Executive Director, is here. If you have any questions about that group, you can speak with Katharine. So I hope you have a very productive day. If any of you have any questions or comments or want to get in touch with me, please call me at the State House and I would be more than happy to talk with you or have myself or other people come and talk to groups about this issue. So thank you very much.

IAN MENZIES: You did mention that you might take one question. Just tell us very quickly what are some of the fuzzy issues that you referred to?

CARMEN BUELL: The fuzziest issue is funding. You know, if you are going, as all of you know, if you are going to mandate local communities to do anything, you have to come up with the funding for them. Now we, you know, just debated and discussed this very strenuously among Commission members and felt that we were going to come out with the strongest statement that we could in terms of what we believe has to be done in order to put us on a very good footing for dealing with the land use decisions that are going to be facing us and are facing us, now and in the future, and that if we don't get communities to really be serious about comprehensive planning and planning that links planning and zoning together, then we're going to end up with a good report that sits on the shelf and everybody is going to, as my favorite planning philosophy is, muddle through another economic boom time. And so, that is probably the area that is most problematic, how to get the funds to the communities in order to do the comprehensive planning.

IAN MENZIES: Again, thank you very much for coming Representative Buell. Two quick things. Kathy Bartolini, would you come up to take some questions and could I ask people at the back to move forward, so that we can run things as a seminar, although the large attendance makes it look more like a conference. However let's try and keep the interplay of a seminar. I think it would make it a little more friendly. Kathy Bartolini, who is Director of the Office of Local and Regional Planning for the Executive Office of Communities and Development, and a Commission member, did come up so now we have a question period. And either, there's a mike in the middle here. Actually I think in most cases people who are toward the back will even hear them up hear. So do we have any more questions following our fuzzy start? And our fuzzy response. Yes.

AUDIENCE QUESTION: The goals contained in the Report on the Special Commission on Growth and Change are also in the Metro Plan 2000 plan and I'd like some reaction to

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specifically the goal of more growth in growth areas and I wonder how that might impact this report.

IAN MENZIES: Would you just take it?

KATHY BARTOLINI: The Metro Plan 2000 report that you are referring to really has what we call compact development goals in a sense that there will be areas of the Metro area that are designated to remain somewhat low suburban rural in character and other areas that, based upon current growth trends and activity going on in those communities, are being designated as subregional growth areas. The position that we've taken which we took without having seen the Metro Plan 2000, that was in process at the same time we were debating how do you avoid the urban sprawl situation that was going on throughout Massachusetts. Bob Yarrow, a member of the Commission, used to call it the New Jerseyization of Massachusetts. And we debated whether we should actually specify growth, subgrowth centers for the state or whether we should require each community to specify an urban growth boundary within its municipal area, to say in this area the community growth can occur and in this area the community growth cannot occur. I believe that we are leading more towards the compact development where you would have regional plans that specify where it is best to have growth occurring in the region because each community has to intensify growth within its own boundaries and supply the infrastructure necessary for it, then each community will be part New Jersey and part rural or part suburban, whatever, so that we are looking for regional growth plans to help set the best strategy of where economic development, capital facility support, and affordable housing can occur so that the communities can work in conjunction with one another, rather than competitively with one another for the same limited funds and the same companies.

IAN MENZIES: Does that lead to any other questions or is everybody prepared to accept the report as such. How many, a show of hands, how many have read the report? [A strong show of hands] That's wonderful. Let me ask another question if I could Kathy. On the state planning officer. You've had preliminary reports about that office and middle reports and final reports and in case the intent got lost in the shuffle are you clearly advocating a chief planning officer; that the office be reinstated with cabinet rank. Or how would it operate?

KATHY BARTOLINI: How it's specifically set to operate hasn't been determined. There would be a state entity responsible for coordinating state planning activities. Each cabinet secretary, assuming that a cabinet stays in existence, but each person in charge

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of a particular functional area would be responsible for developing that plan. The Office of State Planning or equivalent title would be responsible for making sure that these plans as developed were consistent with one another and consistent with the goals stated in the report and in the legislation that gets adopted. We are assuming that that group will have a staff. My preference would be to see the development cabinet continue to exist with the Office of State Planning staffing the development cabinet, providing the coordination. That way the staff would know the functional activities and policy activities of all agencies at the same time.

IAN MENZIES: How would this -- there's a question in the back.

AUDIENCE QUESTION: I would like to ask about further elaboration of the process of getting from local comprehensive plans. How do you see taking that step in relation to the RPA so that this kind of thing works. Each community puts in its own community plan and then they are amended on a regional basis. How does that work?

KATHY BARTOLINI: There is a flow chart on Page 39 of the report and the report is in everybody's packet that you received this morning. And I will allude to that. The first thing that would be happening is that the goals that you find already in the report will be refined in the legislation and we would look for the legislature to adopt those goals, that there would actually be an official statement of policy that's been adopted by the state. As soon as that occurs then the regions and locals would be working together in establishing goals. Something else that would occur --

AUDIENCE QUESTION: Could you elaborate on that?

KATHY BARTOLINI: Right.

AUDIENCE QUESTION: A series of meetings?

KATHY BARTOLINI: A series of meetings, but first of all would be the establishment of the regional commission that does this. As specified right now we would start with the boundaries of the regional planning agencies. But there may be -- I'm getting into possibly what would be in the legislation to help you understand more how the process would work. But if you give the communities time to appeal and say well, we've been in a particular RPA but we've been working for the last 15 years with the community to our west and we are relating to that more than we are relating to the communities to our east, but there may be opportunity to redefine some of the regional boundaries, that

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chief elected officials would serve on this regional commissions, and that they would represent the local perspective. There would also be planning board involvement. The goal setting would then go on simultaneously by the leadership of the local communities who are also the same leadership of the regional commission so there would be simultaneous meetings going on. The same thing with data collection, in order to help you form those goals. And analysis can all occur simultaneously so that you would be at a point so that you agree on what the facts are and what the analysis of those facts are and therefore what your policy is. We would then see it going to the regional group composed of local officials, setting the regional plan. Sending it to the locals for their comment, having lots of public participation in that process, sending it to the state for some preliminary response or compatibility with state policy and then sending it back for formal adoption and then the local communities then proceeding to finalize their plans that have been in process so that they are assured that their local plans are in conformance and are compatible with the regional plans. The regional agency would review it for that and review it for compatibility with neighbors, not just with you -- with the overall regional policy plan, but also with how is everybody doing with the plan around one another. There would also be a requirement that all your land use regulations, zoning, subdivision bylaws, board of health regulations, conservation commission regulations, would all be implementing policy plans and there would be an analysis that the regulations actually do implement your goals and objectives and your planning activities and that we would be -- we are proposing that the zoning be -- the plan be given the status of law. As it does in other states and then it flows from there. But that's how you get your state goals, your regional plans and your local plans.

IAN MENZIES: Yes?

AUDIENCE QUESTION: My concern about the flow chart or the graph on Page 39 is again, the coordination issue, that if the state goals and the region sets the goals in situations where even the goal setting may not be compatible, communities may be choosing somewhat different paths. I'm wondering as this works towards some legislative initiative if there could be even more checks and balances looked at in the goal setting area so that we are moving together, and that you get into the kind of recommendations that need to be made and there can be a way to insure that there is not only better coordination but the region and the municipality have more consensus together about the direction of growth because I think there is a lot of shared consensus, a whole system they are after, probably becomes unworkable and communities may feel after investing enormous resources, both intellectual and monetary, that you get to a point where you have a very good plan, but that plan is not going to be certified by the

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region because the region and the lower communities might not always agree on some major issues. Would there be a way to perhaps tighten some bit of local control so that communities have equal voice in the whole process of certification.

IAN MENZIES: We will be touching on some of that with the next speaker.

KATHY BARTOLINI: I'll try to give a quick answer. We perceive regionalism as an empowerment of local home rule. We would propose that the regions be composed therefore of chief elected officials and communities may want to expand that membership to include the planning board members. The reason for that is that we want all the votes to be made by chief elected officials. Therefore, it should be impossible for a regional plan to be adopted that the locals don't support. Now also in setting up that region for the checks and balances, that would be left to the local officials as you agree on what those boundaries are, you agree on what the powers of that region are going to be, what the scope of activities they can undertake and the method by which you will vote. Some of you may decide on weighted votes. Some of you may decide on one man, one vote. There may be different ways of doing that. But the extent to which the local control of checks and balances that you are looking for is incorporated would be as you set up the charter and rules and regulations for operation of that regional entity. But we do believe that if you have it all locals, that there are no regional citizens, that the local citizens are forming the regional decision making process. Then the regional plan adopted which comes first, should be shaped by how the locals want it before they proceed to write their own. Now, that's not to say that one community, you know, one or two communities are not going to lose out to the majority rule. I'm sure that is going to happen and that's part of the reason why people want regionalism. There will be lots of battles being fought on that regional forum. But it is -- it's all local empowerment to make sure that all the local actors that are being impacted rather than the one that's experiencing the tax game only, would be empowered to participate in the decision making process.

IAN MENZIES: Yes.

AUDIENCE QUESTION: Isn't there a missing element in the plan, namely the inability of the State to formulate and carry out policy to provide funding to do the necessary things? I wonder if somebody could say whether it was intentional, this omission of state role to provide the brain work, provide the funding for highways, to provide locations for prisons, for airports and so on. It seems to me in the absence of that, you will not have an overall plan.

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KATHY BARTOLINI: Alex, I don't see that being missing in the document at all. First of all, there has to be the goal setting and I thought that that is what the communities would want. Just broad general goals from the state and then hands off, let this home rule state do what it wants to do. In fact, that wasn't what we heard at the subcommittee meetings. We couldn't get on to regional and local planning requirements. They kept wanting to get it across stronger what the state must do in their planning activities, which was great, so besides goal setting it was required that each agency develop a functional plan. And that each agency that distributes funds, develop a capital improvement plan to implement the functional plan of how you are going to do housing, how you are going to do transportation, how you are going to do open space and recreation and that sort of thing. Those will be required. Actually, I wrote the flowchart that was here that got adopted and the functional plan development by state agencies. I know that the editor put it in thinking that we had forgotten it. That's up too high. What should happen is that after the regional and local plans get developed, then the functional state plans, because we've made the commitment to incorporate regional and local planning into our goals and objectives, but there is no stepping away on the state's part. For the first time the legislature is going to have to adopt goals. The state agencies are going to have to have functional plans and they are going to have them reviewed by a state entity. And the capital plans are going to have to be there so that people know where people are talking about spending. After the siting situation, we said that the state would site state facilities using as much as possible the input from the local groups. I mean, people can't just say, "can't do it here, can't do it here and you can't do it here. Now find some place else." The state would have the right to site state facilities but to the extent that regional facilities should be sited by regional decision makers we would prefer that and we would prefer input in the siting of state facilities.

Funding? Great debate. I think actually it's to the local advantage that comprehensive planning is specifically with the word, the verb mandate is in here. That means that, based upon 2-1/2, as soon as the verb -- I mean we didn't even send it to any commission to decide whether this verb was a mandate or wasn't. The word mandate is there. That says that the state somehow is going to have to come up with the funding necessary to support comprehensive plans. That wasn't by omission, that was probably six months worth of debate amongst the subcommittee members as to whether we should provide incentives or whether we should mandate it, knowing full well a mandate transferred the responsibility for funding. As Carmen said we haven't found the mechanism yet, but there is a commitment to try to get that mechanism in place.

IAN MENZIES: Thank you very much, Kathy. I hope you will stay up here. You are pinch hitting very well for Rep. Buell and I will -- in fact I think you deserve a little

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applause for doing that. (applause!) What I'm hoping to do is build in a little time before we go to lunch so that any of the panelists can be asked any question.

Let me just say a few words about today's seminar which I intended to say at the beginning, but I wanted to get Rep. Buell to the podium before she had to rush off. I do want to thank everyone for coming. It's difficult getting here and I realize it's also sometimes a hazardous job getting up to this 11th floor and I do appreciate everybody making it up. Although, as I said, this meeting has taken on the shape and size of a conference, please still think of it as a participatory seminar. And I just wanted to mention that as some of you know, we have had two previous sessions at the McCormack Institute on this broad subject, but we did concentrate more on Southeastern Mass because of its phenomenal growth and in some ways its arguable ability to deal with that growth. So this year we just decided that the Legislative Commission on Growth and Change was the subject we should deal with. We've just done that but the Commission's report should remain the focus of what we are discussing today. Then I'd like to take a slight detour. We'll have Jim Bradley of the Mass Historical Commission look at how town centers are being more and more pressured by the ubiquitous mall and what that portends, and Michael Almada will look at both the report and the job of a planner from a hands-on perspective, and David Soule will do the same from the perspective of the director of the Metropolitan Area Planning Council, and Anthony Penski who knows, I think, probably more about zoning than anyone around from his overview position, will talk on that subject. And after the coffee break Frank Keefe will tell us what it's like to have been the state's one and only chief planner, at least I hope he will. And Armando Carbonell will update us on the Cape Cod Commission whose viability is being voted on at this very hour. And Gregor McGregor will tell us what we should be doing legislatively and otherwise to insure that the protection of the environment remains a critically high priority in land use planning. And as you know from your program, Paul Tsongas will be the luncheon speaker and it was he who stirred things up on the Cape by calling for a one year moratorium. That made everybody sit up and take notice. I've given the speakers their time allocations and one advantage of having young grandchildren is finding toys; toys I couldn't have contemplated back when. So I brought this one in, thinking it would be an ideal one minute warning for speakers running over time. The first sound is a machine gun. The second a bomber. The third a laser. Huh-huh-huh. And the fourth a ray gun. So you can take your choice, speakers. I'm dying to use it but I really don't have the chutzpah to do it, so let's get started on Session 1 and zoning. Is it working? Speakers, please use either the podium or your seat mike, whichever is most comfortable.

Anthony Penski is an assistant Attorney General and Director of the Commonwealth's municipal law unit. He is on everyone's list as the man who knows

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more about zoning than any other. A native of Gardner, Mass who graduated from UMass/Amherst, he received his Juris Doctor from Suffolk University School of Law, and he has been Town Counsel for the Towns of Templeton, Hubbardston, and Athol. He also practiced law in Gardner and was City Solicitor of the old chair City from 1977 to 1987. He is an instructor in land development law at Mount Wachusett Community College. Assistant Attorney General Anthony Penski. Would you like to come up to the podium?

[Applause.]

ANTHONY PENSKI: Well, I hope I don't have to play Nintendo with Ian's little machine there. My topic is supposed to be: Zoning -- is it working; does it work? The answer: sometimes it does; sometimes it doesn't. One thing seems clear, however. Zoning that really works is usually found in those communities which have developed and regularly update a solid, comprehensive plan. Plans that have resulted from cooperation, coordination, and input from all local boards and the regional planning agency. We've already heard a little about the future, we're going back to the future now. But too often, unfortunately, zoning measures are implemented as a stop gap course of action in a push-pull war between local officials and land developers. Towns often seem to pass zoning bylaw amendments by reaction, rather than as a result of sound planning. The planning board gets wind of some proposed project and races to get in the first publication notice in the local newspaper of a public hearing for a zoning change to try and beat the developer's race to submit a preliminary plan, or the town tries to pass what are really zoning measures under the guise of using their non-zoning police powers. This more often than not leads to a no win situation for both sides with heavy tabs for engineering, legal, and other costs.

Zoning itself is a relatively recent phenomenon. It goes back only to the turn of the century. Massachusetts' first true zoning enabling act was passed somewhere around 1920. In reviewing that statute, the Supreme Judicial Court commented that zoning when exercised with reason may be thought to bear a rational relation to the health and safety of the community. Note the words when exercised with reason. The concept of use-by-zone type zoning was first upheld as constitutional by the U.S. Supreme Court in the 1926 decision of *Village of Euclid, Ohio versus Ambler Realty Company*. That's where we get the term Euclidian zoning. The court in that case used phrases like increased safety, preservation of a more favorable environment in which to rear children, reducing traffic congestion, quality of life; those phrases, of course, are still catchwords today.

So, how far has zoning come in its first century? Some think too far; others think not far enough. Are we bordering on or have we now even reached the point of

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deprivation of property without just compensation? What did the Supreme Court really say in the First Evangelical and Nollan decisions? Do we really need or want moratoriums? Building permit restrictions? Large lot zoning? The requirements of obtaining a special permit every time somebody wants to sneeze? Those restrictions and requirements for the most part are a result of ineffective long range planning. Planning must look also to growth management, not just growth control.

Let's look at what may have been the results of so called growth control in some communities. Lack of affordable housing; lack of sufficient non-marginal land for building sites; real estate prices that have escalated to the point where the vast majority of potential first time home buyers can't afford to buy; increased school enrollments in one town, while schools of the neighboring community are seeing a decrease. So what new ideas have evolved out of the planning process in the land use area? Some examples include exclusionary zoning, where developers are given certain incentives, usually in the form of a density bonus, to set aside a certain percentage of dwelling units for persons of low and moderate income; concept plans whereby large-scale developments require a town meeting vote to place the land within a large-scale development zone based upon a conceptual plan actually presented to the town meeting. Design, site plan, and environmental reviews: to make certain that a proposed project fits where it is proposed; the much discussed Amherst Farm Land Preservation bylaw, where a certain portion of land within subdivisions must be preserved for agricultural use; and, of course, the ever increasing trend towards overlay districts for such things as watershed protection, aquifer protection, zones of contribution for potential well sites, wildlife corridors, and the like.

Zoning is, however, only one piece of the entire planning puzzle. Just because something is working in Barnstable doesn't necessarily mean it's going to work in Westfield. Take a look at other towns' bylaws and see if an idea fits in your community, but be careful. Don't jump too soon. I review about two thousand bylaws a year for the Attorney General and I think one mistake many communities make is that they fall into what I call the copycat syndrome. Just because it looks good doesn't always mean it is. As a guide to cities and towns, the Massachusetts Legislature, when it passed the present zoning act, back in 1975, pointed out what some of the purposes of zoning should be. Section 2A of Chapter 80B includes a list of such purposes and objectives. When was the last time you took a look at that list? The objectives are, and I'm quoting from the statute: "to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space,

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and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the city or town, including considerations of the recommendations of the master plan adopted by the local planning board and the comprehensive plan adopted by the regional planning agency; and to preserve an increase in amenities by the promulgation of regulations to fulfill those objectives." Does this sound just a little like the Special Commission's Report on Growth we just discussed? Cities and towns should look at all the objectives, not just pick and choose depending on which way the wind is blowing today. Remember that the zoning act, as it's presently in place, only reinforces home rule. It only tells you what you can't do; it doesn't tell you what you can do.

So what do we do and how do we do it? The first thing is to not just pass reactionary bylaws. Step back from the table a bit. Take a good overall view of your community. Where is it now? Why is it there? Where would you like to see it in the future? For example, just once, I'd like to see a town merge all the so-called overlay district maps with the underlying zoning map to create one map that you do not have to be a registered engineer to understand. Sure, a good master plan costs money. And towns are not exactly rolling in the green these days. Yet, in the long run, most towns can't afford not to spend some money. In the eighties, protection of the environment rose to the forefront among community concerns. In the nineties, the concerns might be where do we put all our trash? Or perhaps some other issue we've yet to even think about. If the Special Commission's proposals are adopted, there may be outside technical assistance available to communities. Nonetheless, towns have to be ready to face the challenges of the future and if they don't know where they are today, they surely won't know where they're going to be tomorrow. I believe the time and effort spent to find out will be well worth it.

You have home rule in Massachusetts. Use it. But use it wisely. I live up on the North Shore. In Newbury. And up there we have a coastal area known as Plum Island. Part of the island is in Newbury, the Town of Newbury. Part is in the City of Newburyport. Seems like every other day for the last several months, there's a letter to the editor in the local newspaper from someone who owns a home on the Newburyport side of Plum Island, complaining about the fact that people in Newbury can do things they can't do in Newburyport. Apparently, red tape in Newburyport, at least as perceived by the people on Plum Island, is just too much. Now, I don't know whether that means Newburyport is too strict or whether that means Newbury is too lenient. But I do know that the message is plain. Don't just react. Cooperate, coordinate, board to board, town to town, region to region. The immediate result will be like the answer to the old joke, what do you call five thousand lawyers at the bottom of Boston Harbor? A good start.

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[Laughter.]

[Applause.]

IAN MENZIES: Thank you very much, Tony. That was excellent. Any questions? Yes?

AUDIENCE QUESTION: If a community wanted to do a good job planning for as little money as possible, what would it cost?

ANTHONY PENSKI: Oh, I have no idea. Depends on the size of the community, obviously. It depends on how much willingness there is by the local people to volunteer their time. If you're talking about how much does it cost to call in an outside consultant who can take a look at it. I have no idea. But I think one of the things that may be a problem in some communities is that all of the volunteer boards don't sit down and work together often enough. They never see each other. The planning board doesn't see the zoning board. The board of appeals doesn't see the board of health. Doesn't see the board of selectmen. Or when they do, they're at each other's throats.

AUDIENCE QUESTION: If boards did sit down together and there really was an effort to do this, if the effort was to save money and do without a shoestring, what would it cost?

AUDIENCE COMMENT: I think that, well, I was hired as a planner in Nashua, New Hampshire, to write their master plan. So, it cost them essentially my salary at the time which was incredibly low and which I would never want to go back to.
[Laughter.]

IAN MENZIES: Thank you.

AUDIENCE QUESTION: You mentioned about voluntary boards not working together. How come? Do you think it's because they are volunteers, they don't have enough time to do their board work.

ANTHONY PENSKI: Yes, I think they tend to only focus on their responsibilities rather than taking a good overview of the entire community.

AUDIENCE QUESTION: And you see that as a weakness?

ANTHONY PENSKI: Yes.

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AUDIENCE QUESTION: And then how, so, when you have a master plan and if nobody's talking to one another, how do you organize it? In other words, if volunteer boards are working independently of one another, how does everybody sort of hold hands and get this thing done?

ANTHONY PENSKI: OK. I'm, in the first place, I'm not sure that they're barely able to get done what they have to do and that's the reason they don't talk. And in reality spending time together may, in some instances, make less work for the boards in doing their own jobs. If you have a good, solid plan, you've got to live by it and communities have got to realize that. I guess if there was any message I wanted to impart was don't just react. If you went back 15 years and you looked at the goals and objectives of the zoning act and you put it in place back then, you wouldn't have to worry today like so many communities are, as Representative Buell pointed out, about things like grandfathering. Don't forget all grandfathered lots at some point in time are no longer grandfathered, especially in subdivisions. They generally only last eight years; and it was 15 years ago the legislature told you what to take a look at.

IAN MENZIES: Tony, can I ask a question on behalf of several people? On grandfathering how do we approach that? I mean has it got to be through separate zoning legislation? Should it be through this Growth and Change package of Rep. Buell?

ANTHONY PENSKI: The only way that I think you can approach it is by legislative change.

IAN MENZIES: Yes but under which bill. Should we be pushing independently now for that or do we make it part of a package? Yes, Kathy.

KATHY BARTOLINI: There is a bill being heard now -- April 4th, am I correct? Yes, April 4th there is legislation being heard before the local affairs committee and the bill that was filed by nine out of ten members of the local affairs committee would reduce the grandfathering from eight years to four, would institute the protection clause for those developers or proponents who have their preliminary plan filed at the time of the first hearing, at the first notice so that you don't run into this situation -- I think, the major problem is that you announce you want to make a change and you get a rush between now and City Council at town meeting vote to protect their plans. The preliminary plan would already have to be filed with the planning board prior to the first notice. And there is also discussion of elimination of ANR grandfathering in that provision. And the

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granting of some grandfathering protection to special permit applications that had already been filed prior to the first notice. Right now special permits receive no grandfathering even though they may be well on their way and just about to be granted if someone files a zoning change, even if they get their permit, they can't use it until the town meeting or city council votes yea or nay. And if they say yes and affect a special permit the year and a half of negotiating with the town meeting is for naught because the special permit is affected by the change in the zoning so that would be adding something to that grandfathering. And that bill is being heard at 10:00 A.M. before the local affairs committee on the 4th.

IAN MENZIES: Uh, Katharine Preston and A Thousand Friends of Massachusetts, that seems to be a signal, that date. Thank you very much.

KATHY BARTOLINI: I just wanted to add one thing about -- what do you do when the boards don't get to -- you know you develop the plan and the boards aren't cooperating? A plan is not a plan if it doesn't have an implementation chapter. So at the time you're developing the plan and you know what it is you want to do you'd better know how you want to do it, with whom, when and why because if you don't have those questions answered, that isn't a plan. Figure out what your problems are relative to implementation and cooperation and incorporate some of those resolutions -- you know a resolution of those problems -- into the implementation chapter so that you can go back when such and such a board isn't doing something and say the rules and regulations say you're going to have a liaison in all our meetings or we're going to be exchanging notes or we're even going to give comprehensive permits. That's one of the things being talked about, that the permit is granted in one shot with the input from the conservation commission, the planning board, the board of health and any other relevant board and any other relative board all at once.

IAN MENZIES: Okay. Now I'd like to go to the next speaker who will discuss town centers versus malls and the philosophy surrounding that particular question. James Bradley is deputy historic preservation officer for Massachusetts who over the past 20 years has contributed site research, articles and the editing of papers on archaeological studies, carried out in both Boston, New York state and other parts of this country. He has a B.A. in history from Allegheny College, a Master's Degree in the social sciences from the Maxwell School, Syracuse University and a Ph.D. with distinction also in the social sciences and also from the Maxwell School. He is a member of several historical and preservation boards in Massachusetts and served on the Special Commission on Growth and Change and helped put this seminar together. Dr. James Bradley.

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JAMES BRADLEY: Thanks. Ian had asked me to talk about town centers versus malls and what I'd like to do is recast that topic in a more general direction and talk about what it is that is at risk.

As the Director of Preservation Planning at the Massachusetts Historical Commission (MHC), I spend a lot of time out in the communities. This is really the part of the job I like the best -- getting out, talking with people, seeing what's going on, getting a chance to see for myself how the state is changing. And over the last ten years I've had the chance to visit just about all the 351 cities and towns in the Commonwealth and get back to many of them on a fairly frequent basis. Often in talking about preservation issues with people, whether it's selectmen, planning board members, or just members of the community, I get a response along the lines of: "Preservation is great. You know we're really in favor of preservation, but given the realities, the economic situation, isn't preservation sort of a luxury? Isn't that something that can wait?" Well, I guess the answer depends on what it is we want to preserve.

Preservation gets accused of a lot of things, one of which is that we tend to focus on issues that aren't so important, concentrate on minutia, the trivia and therefore are out of touch with the reality of communities. For example, there are those who say that preservationists are most concerned about paint color, the right kind of windows and all those kinds of details. Preservation is concerned with the details, the details are important. That is a part of why we want to protect old buildings and archaeological sites but that's not all there is to preservation. We want to protect those buildings and sites because those are the components of our communities, what defines their character. If there is a bottom line for preservation, it's protecting and preserving the character of our communities. There are 351 communities and every one of them is different. Freetown is a different place than Fall River. Plympton is a different place than Plymouth. You can go all around the state and draw those kinds of analogies. But that's the bottom line -- protecting and preserving the character of our communities. This is what is at risk. I am also very pleased that in the Special Commission's report that protection of community character is right up there in terms of the goals and the problems.

The other thing that preservationists get accused of being is anti-development, that we just don't want more growth, or anything else to happen out there. Well, that's just not the case. Our office deals with developers all the time. There's lots of room for development in this state. There's lots of room for good projects. More than that, if you look at the issue of protecting community character, what are you really protecting? You're protecting 300 plus years of growth and change. There are very few communities out there that haven't changed, even changed radically over their history and that's part of the record we want to preserve. There is certainly room for that record to continue into the future.

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I don't want to spend a lot of time defining community character. That's an exercise we could spend a lot of time on, and, I think most people have a sense of what it is. It includes components like: what are the natural resources, what is the landscape like, is it a coastal community; an upland community; how was the town established, how is it laid out, how did it grow, what kind of building stock does it have, stylistically what does it look like. What is the population like, what is its ethnic composition, its social composition. What is its economic base? Instead of trying to answer all those questions, a good way to grasp the issue of community character is to focus on what people know and like. What I hear in people in communities saying is that they want their kids to experience the same kind of life growing up that they did. In other words, community character is really tied to continuity with what people know and what people like about their community. If we define preservation this way, in terms of protecting community character, then I think almost everyone would consider themselves preservationists. Let's go back to what is at risk and why we should be concerned. Let me use a financial analogy since we're all concerned with budgetary issues. It seems to me that our communities are very much like trust funds and if you take the buildings, the sites, the landscape, all the physical elements of the community -- that's the principal of the fund. That is what past generations have invested in. That's the equity that's been put into the community over its history and, in that sense, it is what's been bequeathed to us, the current generation. That's our inheritance and we can spend it, we can re-invest in it, we can squander it. If the buildings, the physical part of the community, are the principal, then community character is the interest. That's what accrues from all the nice stuff that's out there. And the interest can be used in a lot of ways. We can use it to sell the community. We can say this is a great place to visit, this is a great place to live, it's a great place to raise a family or establish a business. And we can use that sense of place, that sense of history in any number of ways. Heritage tourism is a real hot topic right now. Why do people come to Boston? Not to see the tall buildings. They want to walk the Freedom Trail. They want that sense of the past.

Another way that this interest, the sense of community character, works is by being invested back into the community. The communities that I find most interesting, and most healthy, are those that have a good sense of themselves, are comfortable with their past and have used that as a basis for a strong, healthy civic pride. These are communities that know where they come from, they know who they are, and where they're going. These are the communities that, for my money, have a future and that are going to survive and adjust whatever is coming. Just to finish up this 'trust' analogy -- You can do whatever you want with the interest from the trust; what you don't want to do is start fooling around with the principal. This is an important point -- every time we knock down a historic building, every time we destroy an archaeological site or alter the

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landscape, we are dipping into the principal. We're starting to remove some of that equity that's been built up in the community. We're removing the principal and if we continue to do that on an incremental basis, we run the risk of waking up one day and finding that account is empty. There is no principal, there is no interest and we're stuck. That's what we want to avoid.

These are not the best of times in Massachusetts. That's hardly news. But I think we also need to remember that these are not the worst of times. There are plenty of people in this room who remember Massachusetts in the 50's and 60's before "The Miracle" came along; and those weren't such swell times as I'm sure many of you can attest. There are probably people here that remember the 30's, the Depression, when it wasn't a swell time at all in Massachusetts. While I don't want to go through a long historical exercise, we don't have to look too far into our history to see that there have been some very tough times: the post Civil War depression, the panic of 1873 when the first grease started to go under the skids of the Massachusetts manufacturing empire; the Panic of 1819 when the banks failed, and all that brand new manufacturing industry went belly up almost over night; or even the post revolutionary era which we tend to see in a rosy, sort of romantic perspective. Well, go back and look at the facts -- currency wasn't worth a damn, people were being evicted off their property, and thrown into debtors' prison. In this part of the state, the maritime economy, what was left of it, was in shambles. In the western part of the state there was open rebellion. Those were bad times. The point is that we've survived much tougher times than we're facing right now. We've been able to bounce back and grow and change.

The danger it seems to me is two-fold. On one hand we risk talking ourselves into a situation that is much worse than it really is -- sort of like psychosomatic illness. You can convince yourself that you are mighty sick and surprise, you're mighty sick. We may have the lowest bond rating in the country. I don't think that's a reflection of the economic realities of this state. Let's not make it worse than it is by dwelling on it. On the other hand, I think there is the risk of ignoring what is really wrong. There are things that need to be fixed. One of the things that's wrong is the rate at which we have developed over the last ten years. In the course of that development, we have dismantled a lot of our communities, taken them apart, sold them piece by piece, squeezed the equity out of them. If we continue to do this what are we going to rebuild from? We've always been able to rely on healthy communities. That's been the bedrock of our Commonwealth, how we've been able to bounce back. If we've taken our communities apart, however, we haven't left ourselves much to re-build from.

One of the ways that I like to gauge the temper of the times is to look at bumper stickers. And a couple of my recent favorites are "Guns, God and Guts: Make America Great Again." I didn't catch the party affiliation on that pickup truck. Another one is

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"Only a bastard like me could love a bitch like her." That car had a marriage encounter bumper sticker on it. And then there's a whole bunch of bumper stickers like "I've got mine", "I want it all", "the one with the most toys when he dies wins", that kind of stuff. But the one that really scares me is the one I've seen a lot and it says "I'm spending my kids' inheritance." Well I hope we aren't. I hope we aren't.

Let me conclude by saying that I don't think we are all going to agree on what needs to be done, and that's fine. The ability to disagree is a part of who we are and it's been the yeast that has kept us adjusting and changing. But I hope we can agree on a couple of things. One is that our communities are worth saving. There is no question in my mind about that. If we lose our communities, we've really lost it all. If we're to save our communities, however, then we're going to have to accept some limitations. We're going to have to sacrifice some of our own personal prerogatives for the good of the whole. Nowhere is this more urgent than in the issue of land use controls. But if we can do that, if we can agree that our communities are worth saving, then, while there are going to be an awful lot of particulars to discuss, I think this is a state that has a future as well as a past. Thanks.

IAN MENZIES: Any questions on -- yes.

AUDIENCE QUESTION: What about malls?

JAMES BRADLEY: Malls are fine. Malls are a part of life just like everything else. Let's just make intelligent decisions about where they go.

AUDIENCE QUESTION: How about not only where they go but what they look like and how they are sited. Our community just approved a site plan for a mall that's just basically a strip mall. There are no design guidelines. We're working on that now but there is nothing that gave the town any control over what this developer came in and gave us and essentially could just as easily have gone in Saugus as in Amesbury.

JAMES BRADLEY: Well, the issue of control is a tough one. There are lots of tools that are available and communities can avail themselves of those tools. If you had a local historic district, you would be able to control not only -- and this is under the state enabling legislation, chapter 40C -- you would be able to control not only any changes to buildings within that district but you'd have designer view authority over any new construction including malls. So there are ways that you can exercise designer view authority. Yes.

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AUDIENCE QUESTION: That's my question. A would-be subdivision in a historic district. How would you see the difference between the goal of the historic district commission and those of the planning board under their rules and regulations which are all geared toward safety and access, wide roads, et cetera. How do you see those being resolved?

JAMES BRADLEY: Well here again, this is why boards need to talk to one another. If the subdivision is within the district, the final authority, at least as I understand the law -- and Tony can clarify or correct me if I'm wrong -- lies with the historic district commission -- siting, massing, exterior materials. Those are all issues that fall under the purview of the district commission. The problem is a little more tricky if, say, the access to the subdivision is in the district but the subdivision lies just outside. That's a tougher one and I think you're going to have to sit down and do some hard negotiation on that. And I don't want to give too general an answer because you get into specifics and they vary considerably from community to community but if you have a specific issue, I'd be happy to talk with you later about it.

AUDIENCE QUESTION: Well I can't speak for the Dukakis administration but my sense from driving around the Commonwealth is yeah, I think you're right and one of the reasons the growth commission focused on community character was to try to get high density development back into areas that are already high density, where you can accommodate it better and not just fill up the landscape with a lot of clutter and that's been happening.

KATHY BARTOLINI: Can I rebut that? I would disagree that there is any change in state policy. We are tied by the local rules and regulations. We cannot go up to somebody who has a purchase and sales agreement for 200, 300 acres to develop a mall and say you can't do that when the local rules and regulations in that community say they can. Yes, we can deny a curb cut permit but there are bases by which you do that. I mean, if there is no other development there and you can't show that there is going to be -- we may know ten years from now we are going to have a mess of traffic if development spins off from that, but today we don't have facts and figures that we could defend the denial so that we need the local planning to occur to understand the relationship between the land uses and the transportation corridor. But we -- no, we're no more in favor of placing mega malls out in the middle of nowhere than we were from day one.

IAN MENZIES: Okay. Yes.

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AUDIENCE QUESTION: I think this is kind of a case study. The city of Leominster is currently considering a zoning change, a direct contradiction to a growth management plan. They're considering changing the zoning to allow a 150 store mall to locate in an area that zoned general industry and this is in direct contradiction to a growth management plan put together by consultants for the city. And they're considering the economic advantages of letting in the mall versus sticking with the long range plan of keeping this an industrial area. And I wanted to know can home rule be overridden by a regional planning authority's role in this growth commission that we're talking about. Could they actually say that despite what Leominster may want to do, and I'm not saying they want to go this way but let's say they did decide to change the zoning to accommodate this mall. Could regional planning step in and say that this is not the big picture for this region and we overrule it?

KATHY BARTOLINI: It would depend how the legislation evolves. Currently they could not do that except possibly tomorrow on the Cape or currently Martha's Vineyard. But other than that in the legislation that would come, it would depend upon the amount of power the local communities vested in their regional commission. I would hope and I will push for this particular model where the regional plan could override the local decision so that if you know that the best utilization of that land for that region is industrial and you don't want to extend infrastructure to other places in the community, in the subregion, to make up for that, that the subregion would be able to say no, the re-zoning is inconsistent with your comprehensive plan.

IAN MENZIES: Okay. I think we'll move along now and I would like to really introduce Michael Almada who until six weeks ago was the town planner in Marshfield, one of the South Shore's fastest growing communities. Maybe it grew too fast because Michael has moved up to be Director of Planning and Community Development for the City of Laconia, New Hampshire. Before going to Marshfield in 1986 he was planning director for the town of Braintree and before that urban design planner for the City of Pittsfield, Mass. With a B.A. from Notre Dame, major fields music and modern language and an M.A. from UMass/Amherst in regional planning, Michael Almada is a cultivated man with a broad grass roots experience of planning. Michael Almada.

MICHAEL ALMADA: Thank you for that introduction. I don't know how to follow that except maybe to play you a tune or something. First of all --[microphone comes apart]

IAN MENZIES: Okay, you're not a cultivated man. [laughter]

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MICHAEL ALMADA: Technically adroit, no, but resourceful, yes. First of all it's wonderful to be back and to see so many familiar faces. Following on last night's Academy Awards and watching Billy Crystal all night, I have to say, "you look marvelous." It's really good to be here. Also I'd like to thank Ian for a couple of things: number one for drawing us together here for a third year in a row; and for mentioning the term land use again in Massachusetts. I agree with him it's not a very funny term. We'll see what we can do about that this morning, but I appreciate the kickoff.

I think I'd like to begin by saying Michael Almada couldn't make it so he called "Plan Temps," as we do in Massachusetts, and they sent me, Bob, to talk to you this morning about local planning. Now, Mike told me that this would be a very difficult audience because some of you have never been local planners but many of you are far more talented and more experienced than he and I put together, so this would be a tough group to address. He said you're going to need some good examples so I brought some examples with me and I'm trying to think just what we should look at here. I think we'll get rid of that Academy Awards routine. Well, I'll tell you what -- it's championship time, basketball tourney season. Let's talk about NCAA's. Here we have our court side seats. I just happen to have this diagram with me. Can you all see that? There we go. All right. We'll start off by making an analogy perhaps to something we're a little more familiar with. How can we get a message across, not to the converted among us, but to people we're talking to out in the field, the lay volunteer citizens, or the citizens who aren't involved in this process at all and have no idea why they would want to be interested in it? Let's talk about our objective, basically getting to the hoop, making some points. Let's apply this to planning -- how does this happen in the process of the town meeting for example? We have an objective. We want to implement something. On the local level, the institutional answer is you go to the town meeting to get the approval. How do we do that? Well, it usually starts out by saying let's give the ball to Bob the planner. He's got an idea or he's taken an idea from the planning board chairman and Bob's going to inbound the ball to the planning board. Now this is an experienced planning board. They know just what to do with it. They pass it right back to Bob. Bob makes the revisions. He's pretty quick, good hands, probably has a word processor, gets it back to the planning board. The planning board passes on to the Fin Com. (Finance Committee). Now this is just the subcommittee of the Fin Com. The Fin Com says, "we're not so sure. We think you'd better take this to the full Fin Com." They pass the ball back to the planning board. The planning board is now passing back to the full Fin Com with some revisions. Now precious seconds are being eaten up on the time clock here. We're fairly late in the last quarter of this game. This may not be the whole tournament but we're getting down there in time. Since 1920 the only idea we've

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come up with is zoning and then in 1950 we thought about subdivision control. We haven't been doing real well in this particular game. We're coming from behind. We need points. Now our planning board gets the ball back from the finance committee. The finance committee says, "you've got to be kidding us, \$30,000, that's too hot a ball to handle. We're giving it back to you." The planning board finally dribbles in. They know they've got to get to the hoop, to town meeting which is down here in the scoring zone, they know that what they've got to do is get this item on the warrant. So they pass it to the selectmen to put it on the warrant. The selectmen -- see, they're not very good ball handlers, you understand, but the ball is already in their hands -- they say "we've got to get rid of this, this is a hot potato. We see this defense lined up here at Town Meeting. They're too tough. We're passing it back to you, planning board. You take it up to the town meeting." The planning board looks for the shot. They can't find it. They pass it outside to Bob and Bob has a chance to make the shot from the three point zone. Well I'm not going to tell you whether he makes it or not. Now, you see that actually we've only got a few men on court here. We've got one, two, three, four players. We're missing players aren't we? This is where the analogy perhaps begins to go a little bit awry because we know in basketball we've got a referee and we've got some coaches on the sidelines who are helping to orchestrate this whole affair and to bring it towards its objective. We don't have that in town meeting. We have town counsel. He might blow the whistle now and then but he doesn't want to get thrown out of the game so he's not going to blow too loud. So we know that quite often what happens is when we bring in the next player he brings his own ball with him. Now here's the big guy. This is the school committee. The school committee is going to say the heck with this planner over here. We're not terribly interested in his proposal and neither has the planning board been following the school committee's action too closely. The school committee brings its own ball into play and they may make a perfunctory pass onto the selectmen but basically they're going to drive right to the hoop, themselves, and they're going to be there for the rebound if they miss. Okay now this is five players, but I tell you what, we have no coach who is controlling substitutions. Now we've got all the second string players, of which actually the planning board would be more accurately a part. And the second string players, they all want to get on the court. They want to get their shots in. So what happens. There we've got the DPW, Conservation Commission, board of health, personnel board. Sorry, Jim, the historic commission is still on the bench. And this is the result: everyone shoots simultaneously, blocking one another's shots and nobody achieves their objective. At best, if the ref comes out on the court, the play gets called back -- too many men on the floor. At worst, everybody is shooting haphazardly and the shots are conflicting with one another. Now frankly who would want to invest money in that kind of amateur process. Who would want to back that kind of a team.

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They don't even know who they're putting on the floor. So let me say that we have a problem and the problem is with organizational efficiency -- this is our institutional perspective now. If there is a problem with organizational efficiency how do we get investment in this organization from outside? How do we get some good coaching staff in here? How do we get some good reffing on the floor so that we get a fair calling of the game.

Resource Allocation:

Well, we've got to talk about allocation of resources, don't we. We can't avoid it. Carmen tried to get past it this morning. She got caught on it and we're back to it two or three times already. Let's talk about resources in the local budget. This is a typical kind of municipal budget I think. The school, perhaps justifiably, takes the big enchilada, 52%, police and fire about 10% plus or minus 5% in some communities, DPW is about 10% also, not too bad considering all they do for us. Debt is somewhere between five and ten percent. The fixed costs, they are rising. Six percent has been traditional. We probably have some good finance folks here; or we'll call Bob from Account Temps to comment on that. But these are numbers that are in the ballpark. Then general government takes what is left (about 14%). Of the general government portion, I've highlighted three of the often elected (i.e. major policy) boards: Assessors about .4%, Health about .2% and Planning, a whopping .1% of the total budget. Altogether those major policy boards receive .6% of the total budget. Part of the problem is not just how we allocate this pie but also the size of the pie. And I think we might fairly ask, is the pie too small? Can it be made larger? I'd like to come back to that.

If we want to address more achievement in our planning then I think we've got to broaden our understanding of what planning is and several of our speakers have touched on it this morning.

Organizational Objectives

I'd like to follow up on Anthony's and Jim's remarks. Now we cannot take only the reactive role in planning. Actually if our basketball analogy had been a little more apt, we might have shown the planning board on the defense where they most commonly are. Here is a kind of a list of things that should be part of our agenda. I'm talking fundamentally about two things, as Carmen mentioned, about resource protection and about the construction of our necessary public and private capital facilities. Well, on the local level, what happens? I think we end up spending most of our time in regulation. We advise. We require information. Okay, occasionally we get to impose some

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conditions or some standards, specifically with regard to street standards, but in general we leave a whole array of tools untouched at the local planning level. Some of these shown in the graph here would be capital planning actions I think other local boards might take, but does the planning board have any role or any activity in this planning, is it in any way associated with those activities? Marginally I think. We're missing a big part of our mission, which is to be pro-active, look at something besides regulations. Well, here's the defensive game, the permit, "the development process" we call it, although I'm not sure how much of a process it is. To me it's more like a maze. We give the applicant any number of opportunities to "access the process", -- there are some real holes here you can really move through. Perhaps when you get down to ANR's (approval not required plans) and comprehensive permits, boy you can fly right through. You're on the track. But in general, we say to the developer "here's our defense. We're going to put a lot of people (process) in the way and you find your way through. We really don't want to help you because we think our offense is creating an obstruction, a defense." Is that really serving our constituency? Is it really reaching our objective of doing something positive? No wonder nobody wants to invest in us. All we are doing is obstructing. I want to go back to our thought about organizational efficiency and capacity.

Organizational Capacity

In addition to those efficiency concerns, I think that we have a concern as well about our qualifications to perform the roles that we want performed. We've talked so long about volunteer boards, based on some real concerns about access to a decision making process, about ability to participate in a process; those are concerns that we cannot turn our back on. They are fundamentals, certainly, in this place and time. And don't think that anything I am saying is advocating turning away from those principles. But I do think we need to look at the issue of can we do what we say we're going to do. If we are asking for more resources to be dedicated to our planning effort, be they on a local level or a state and regional level, then I think we've got to show that we have the ability to create product, to achieve what it is that as citizens we want. I'll offer one suggestion, better living environments, less congestion, etc., in terms of local land use permitting. There are some very simple kinds of reforms that we can undertake. I think that if we want to be in the permits process, as a big part of our business (and I don't think we can get away from that entirely; there is a place for zoning; there is a place for regulation of critical resources; then let's look at how we approach this. Let's give this team some training and some coaching. Let's talk about a single 11 member Land Use Board -- yes, let's have some volunteer membership on these boards -- say five

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members -- and let's have open selection. Let's have anyone here who may come forward but let's give them some training when they come forward. Now let's add to their dedicated efforts, with five professionals trained in the relevant fields: transportation (engineering), conservation (biology), economic development, housing, and land-use (planners). Most of these people we already have serving in local government. But let's dedicate their efforts to land use. So let's have our engineer, let's have our health agent (trained in soils), our conservation administrator (for wildlife), let's have our planners for land use (housing, economic development, and environmental protection); let's have a chair who knows how to pull the efforts of these people together, (trained in management or public administration) a coach, to get them from one end of the floor to the other, to bring them into the game, fit and position them to win. Let's talk about the dedication of budgets. What if we jump to a screaming one percent of the total municipal budget to support this activity? Could we then not only handle a permitting side of the program but an ongoing, not a temp planning program, but an ongoing planning program that incorporates programmatic action year in, year out and builds steadily, not tries to make up ten points all in the last quarter but every time it goes down the floor, every time it goes to town meeting it scores two points; a program that keeps us in the tournament. I think these are some of the notions we need to build on. Certainly I would not suggest that that is an all encompassing list of what needs fixing in our local institutions. But the stakes are fairly high. We have, I think, some very exciting developments on a regional level. We'll know, I guess this afternoon, whether or not we're going to make it to the regional finals (with the Cape Cod referendum) when the vote is in. We have some exciting suggestions about reactivation of state planning. Frank Keefe is here to address the realities of that job. But notwithstanding that there are some very exciting things happening on the state and regional levels, fundamentally we turn back to the fact that it's this grass roots, bottoms up kind of philosophy that we always back, and it's here, at the local level where so much of the land use power is vested. This is where it needs to be skillfully used if we're going to realize a strong regional and statewide component. Thank you.

IAN MENZIES: Thank you very much indeed. I'm not going to let you back up here. You can answer questions from the table. Are there any questions? Go ahead.

AUDIENCE QUESTION: Well, it's not really a question or a comment. Mike has raised the concern I have in Kathy's plan for regional representation and who it is that is going to be making decisions at the regional level. I have a lot of concerns about that.

MICHAEL ALMADA: Well, Joan (Oates of Hingham), I don't think that I can answer that as well as some of the other panelists. But I would like to add onto your earlier comment

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or thought and another lady's comment as well about how do we get local boards together or can we get local boards together. I think we already ask a tremendous amount from our volunteer government. We have -- one, two, three meetings per week. We're asking our players to come out and play a night game and they've already played all day long in some other league, now they're coming out again tonight. And I think that's unrealistic. And I think that if we want this process to work, yes, people at different times in their lives have that kind of time to dedicate for a period of time, for a year or two years, or in some extraordinary cases of dedication perhaps five years, but I think in the long run if we're talking about participatory government we've got to find ways of empowering people reasonably to come to occasional meetings, like this one, to find some training. But for the people that we expect to be there, day in, day out, playing in every game, I think we've got to look at a different basis than a volunteer basis of involving them. And then we who are here day in, day out, we've got to find better ways of communicating. Not necessarily through board structures or through the conventional meeting structures, but communicating back with those people who are interested but realistically don't have the opportunity to come or to receive training and be involved every day, every week.

IAM MENZIES: Thank you again, Michael. That was a delightful presentation. We'll now move on and we have with us David Soule, who is Executive Director of the Metropolitan Area Planning Council, whose agency has of course, as many of you know, Metro Plan 2000, which he sees, really, as the regional approach to planning in the next century. David Soule has been with the MAPC as its Director for the past 13 years and before that was for 6 years Executive Director of the Regional Planning Commission in Nashua, New Hampshire. Seems to be there's some traveling going on between Boston and New Hampshire among planners. His planning numbers are impressive. His agency embraces 1445 square miles, 101 communities, and a 2.9 million population, and his Board has 135 members, which I'm not sure whether that's good or bad. The glitch is he feels at times unempowered. David Soule.
(applause)

DAVID SOULE: Ian, just one small amendment to my bio. It feels like 13 years; it's only been 3. And Alex Alexsky handled the traffic before that. (laughter) That's no problem, it was my fault. You've heard a little bit about Metro Plan 2000. I feel that it's picking up some speed. I was a little bit afraid that Metro Plan 2000 was going to slide through as an uninteresting, boring exercise. I can assure you that planning is now a contact sport in the metropolitan area. It's getting very exciting. The headlines are talking about Valentine's Day Massacres and things like that. I'm a little bit torn as to which Oscar

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nominee to pick, whether I should "Do the Right Thing" or whether I should hand the process over to Kathy and Carmen and just "Drive Miss Daisy" around and let them be the front people for the process. I also am struck by Eisenhower's definition of leadership. It's like taking a piece of wet spaghetti and trying to drag it across the table. If you pull it too hard, it falls apart. Consensus building is not as easy as people told us it would be. I've left in the back of the room a copy of our annual report which has in it the map for Metro Plan 2000 and I also have several copies of the proposed recommendations that we presented to our council on February 28th. If any of you are interested in giving us some input, we have some questionnaires on the plan. I'd be glad to let you fill them out.

Let me take you quickly through the mandate I was given in 1986. When I was interviewed for the job, I was asked whether I believed in regional planning. I said, of course, doesn't everybody, and found out quickly that that's not true. I was also told that I was to deliver a regional plan for the Boston Metropolitan area, with no additional funding resources and without proposing changes in the statute. If I did that, the president promised that he'd run me for governor. I'm not sure that's such an attractive job at the moment.

What I can only say is that I applaud with unreserved handclapping the work that Carmen has done with the Growth Commission. I think it presents a series of proposals that need to be debated fully and discussed. I am also impressed with the Cape Cod Commission. I know that they have run into some last minute static on the line, but again, planning is a contact sport.

I've been using the analogy that MAPC, your metropolitan area planning council with 101 communities is like the U.N in its institutional framework. It's advisory. It has no power, and I'm not sure at this point in time, that the U.N can do the job that has to be done. I'm trying to give the metropolitan community the best staff input that we can, but it's really in the hands of the local officials to decide whether the vision that we're trying to articulate is what should be going on. A few background points. We see the Boston metropolitan area as having a very stable population through the next 20 years, but continuing to attract over 300,000 new jobs. This is because of our economic strength, which is still there, and is still strong. However, it's clear to me, as the planner for the metropolitan community, that our economic competitiveness is going to depend on whether we can keep and maintain and improve our infrastructure. All you have to do is to spend 15 minutes in a community meeting and you hear traffic, traffic, traffic. People who used to live on a nice country lane are now sitting through 3 and 4 cycles of the traffic light just to get out of their street. That's placing a lot of pressure on the lifestyle that we've adopted, and that we feel comfortable with. It is challenging us. In addition to that, and I say this with a great deal of respect for Cape Cod, but the Cape is a relatively

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homogeneous area. It's not as hard to get consensus on the Cape, although it took a lot of time, as it is in the Boston metropolitan community. We have a very diverse population. It's very heterogeneous.

At the same time, we're getting a very strong austerity impulse in government. I'm afraid that that austerity impulse is going to push us to the point where we may bomb ourselves back into the Stone Age. Everybody runs from the "T"-word. Most people are afraid to take leadership on the key strategic issues. I think people feel that they're not getting their money's worth from the public sector. If that trend continues, we will find ourselves in a very serious downside. I'm an optimist and I do feel that there's a tremendous reservoir of good will, of strength, if the kind of leadership that we're entitled to comes forward. I think we're going to see a rebirth of that vision and a rekindling of that kind of thinking. In the metropolitan area, we've spent 3 years articulating a vision that talks about a strong urban core, built around our existing rapid transit system (the Red Line, Blue Line, Green Line and Orange Line); a very strong urban service area, which is built around our existing sewer service that we're about to spend \$2 to \$3 billion to upgrade; significant set of resource protection overlays to make sure that we don't foul our nest any more than we already have. The most controversial piece of our proposal is to concentrate development in key subregional centers. You've heard some of the earlier spokesmen worried about what it means when the region begins to describe a concentration of development which exceeds what the local communities expect.

I can assure you as the director of the metropolitan area planning council, that the best regional solutions are locally derived. If the local governments don't want the plan, it is the local officials who will be voting on the plan. I expect that we will have a process that attempts to bring consensus forward on what we think is necessary.

A couple of statistics are driving the planning. 67% of all the new jobs that we expect in the Boston metropolitan area are going to be in the suburbs. 62% of the commuters are going to be traveling from a home in the suburbs to a job in the suburbs in the year 2010. The only transportation service available to them right now is their private automobile. I don't think we can create fourteen lanes on 128 in order to service that kind of traffic. We have to begin to describe alternatives, particularly in the suburban areas. We're looking at some proposals for beltway transit which could talk about dedicated transit lanes. That only works if we have nodes of concentration along the beltways.

These are the values we have articulated in the dialogue about the plan. We will be using the plan to prioritize our infrastructure investments in water, sewer, transportation, land use, economic development, housing, etc. We're also talking about using our existing powers and duties, such as commenting on projects as they go through the MEPA process.

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Regionalism is a 25-year-old experiment. As we look at experimental forms, and processes, we have to be willing to say where are our successes, and where are our failures, and evaluate them honestly.

In 1986, when I came to Boston, it was a very exciting place to be. The Red Sox were heading for the World Series, the Patriots had been in the Super Bowl, the Celtics were world champions, we had a young governor who was thinking about running for president. I'm hoping that the excitement and enthusiasm that we all felt when we watched "Cheers," and saw "Spencer for Hire," and "St. Elsewhere" on television will be rekindled. I think there's an underlying spirit that we need to tap back into. It's the root strength of New England, it's the diversity, it's the potential that's here.

Let me just close by relating a story by Jay O'Callahan. He talks about Edna Robinson, who was the town clerk in Harvard, Massachusetts in 1925. One night she was walking home from work, and a leaf fell off a tree, and ran across her face. She sat down by the edge of the road and cried, because she began to realize that her life was like that leaf. It was just dropping off a tree, and it would go past unnoticed. Since I'm a theology major, she had what I would call a religious experience on the side of the road. She began to realize that her life needed to reconnect to the people around her. So she connected with the plumber. He brought her over to dinner one night, put a steak on the end of a pipe, cooked it with a blow torch, and served it for dinner. She met the hobo in town, and began to develop a love affair with this young fellow. She also began to come in contact with people like Bicycle Kelly, who was the rag man who would drive around town. Several months later she began to realize that her life now had meaning, because she had made contact with her community, and with her roots. She was now someone who was not only loved, but someone who loved in return.

I would just close with the fact that I've been in this business for almost 20 years. I'm in it for my kids. I just would remind you that that's what we're about, we're about leaving a legacy for our kids. My daughter was kneeling down the other night to say her prayers. She went through mommy and daddy, and grandpa and grandma, and then she looked up, and she said, "And God, please take care of yourself, or we're all sunk." Thank you very much. (laughter, and applause)

IAN MENZIES: Thank you very much, David. Any questions for the MAPC? David -- I have one, David, I'd like to ask you, because we have sort of three reports in front of us, in a sense. Three studies. We have the Cape Cod Commission, we have your Plan 2000, and we have Evelyn Murphy's and I just wondered how all these plans will sort of work together.

DAVID SOULE: I think the richness of the Commonwealth of Massachusetts is its diversity. I feel that everything that we have that is good, we need to find a way to take

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care of and preserve, and those things that we find are uncomfortable, we're going to have to deal with in some strategic ways. I think that Armando has given us a model of how we can do it in a series of communities that are very heterogeneous, and do have a common vision. I think that the Growth Commission has given us a possibility for a state-wide model. I would only hope that the Growth Commission allows the flexibility and diversity, so that different parts of the state can handle the problems that they experience, based on how they feel about those problems locally, and so I've argued for sort of a menu-driven statute that doesn't just clone the Cape Cod Commission around the State, because I have a feeling that I couldn't get 80% of the people in the Boston Metropolitan Area to vote to give MAPC the kind of powers that they're giving Armando today. So I think we need to have a mechanism that's flexible, that recognizes that the fundamental land-use control agencies are local government, and that local government needs to be empowered in that process. I think that if we have that kind of thing, and that we don't just try to overdo a good thing that has happened in one part of the state, but we allow the process that Armando went through to get to that point, and we'll hear a little bit more about it in a few minutes, to cook in the very locations that it's going on right now. I think that's what will bring us together. And that when we get consensus, we will do the right thing.

IAN MENZIES: Thank you. Just before we break for coffee or whatever, Kathleen Foley, who's the Director of External Relations, here at McCormack, and who somehow managed to put all these logistics together, asked me to draw your attention to the flyer in your kits, on Earth Day 1990. That's this single page [Holds it up], which is to be held at the UMass/Boston Campus, on April 21st, between 10 and 4 pm. It's going to be a fun day, and all are invited. There is a number in the flyer to call, for further information. And after that, I thought, excellent first session, let's break for fifteen minutes for coffee, or whatever. The restrooms, for people who are unfamiliar, take a right and go past the elevators. Thank you.

[coffee break]

IAN MENZIES: Welcome to this second session. Unfortunately, Paul Tsongas has to be a pall bearer at An Wang's funeral service today, and you can understand why that's very difficult for him, because he was very close to the family. But I have talked to him, this morning, and he will try to come over very briefly -- it won't be at lunch -- and say a few words. So we -- our panelists know the situation, and have very graciously agreed to let him fit in. And if we do that, we will probably change a little bit our rotation, and have Armando speak to us, which is just great, at the lunch. So anyway, we will go on.

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All our speakers will be here at one point or another. So, on the second session. First off is the role and need for a chief state planner. For the purposes of this seminar, I want you to forget that Frank Keefe was Chief Fiscal and Administration Officer of Massachusetts. (laughter)

FRANK FEEFE: I'll try and forget. (laughter)

IAN MENZIES: Maybe he too would like to forget it, but that aside, think of him more as the State's first and only Chief State Planner. Frank Keefe was born in Boston, and graduated from Fordham and Oxford Universities, BA and MA in Philosophy, Politics, and Economics. He worked briefly in New York with the Port Authority, then became Director of Planning for the City of Lowell in 1971. He was made Director of State Planning in Governor Dukakis' first term. In the Governor's second term, he let the office -- the Governor let the Office of State Planning lapse. Which I personally believed was a mistake. I thought Frank Keefe's grass roots growth-policy committees did a great deal to stir up public interest in planning. Something that we still very much need today. He is a frequent guest lecturer at universities, and is currently Senior Vice President of JMB Urban Development Company, one of the leaders in the nation. Frank Keefe. (applause)

FRANK KEEFE: Well, thank you very much, Ian. It's great to come back and see some old friends that I haven't seen in years and years. Somebody came up and said, "Oh, my God! Where's the beard?" (laughter) It's been about a decade since I had a beard. And Ian, if Paul Tsongas walks in, I'm used to Paul interrupting my show, in one way or another, so I'll gladly sit down in deference to Paul, who is a good friend, made many years ago, back in the city of Lowell.

It's great to talk about the Office of State Planning, and it's great to endorse the concept of resurrecting an Office of State Planning, because it's certainly the best job I ever had, with the possible exception of City Planning Director of Lowell. It was one of the greatest jobs anyone could have, and I appreciated Mike's comment about wanting to be Director of State Planning, and not wanting to be a local planning director. I think they're both great jobs, and so I'm here to endorse the notion of creating once again, a job like that, because it's just the most exciting experience I ever had in my life.

I've got a lot of turf I'd like to cover. And very little time to cover it, especially if Paul comes in, so I'm going to race through a lot of topics, and hope to generate a lot of discussion. Perhaps a little heat as well as light. I can afford to be somewhat controversial, because no one can get me these days. In budget debates, in committee hearings, they used to call me all sorts of names. Thank God that's all over. Six years

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was enough. But I think these are important times, and it's great to see the Thousand Friends of Massachusetts created, it's great to see what Ian's doing here at the McCormack Institute.

The Commission, I think, did a superb job at putting these issues before the public again, but I think so much more has to happen. But first let me tell you quickly about what the Office of State Planning tried to do. First and foremost, it was administratively imposed by Governor Dukakis on the labyrinth of state government. It was done with virtually no money. The Governor said we would create an Office of State Planning, we would do it with an executive order, and we would not spend any more money. We would basically siphon off funds from various planning endeavors elsewhere in state government, and centralize it in the State Planning Office. It was a nice notion. But it built through time, to have quite a bit of authority, versus power. Authority, earned, I think, through a lot of hard work, some very good people, and a lot of energy. We were all much younger then. These gray hairs really do signify something. A loss in speed, momentum, and everything else. But the Office of State Planning was, as many of you know, a very energetic place. And it tried to transform the way in which the state did things, throughout all aspects of what the state did. Creating policies where policies didn't exist before, except through inadvertence, or through just the assertion of one part of the system versus another, without any kind of sanction from either the Legislature or the Governor. It tried to transform the way in which programs were carried out, consistent with those policies. This is something as a local planner, I saw all the time. The state had these crazy programs, all working at cross purposes. They had rules and regulations which flaunted any sensible planning process at the local level, and I can tick off quite a few of them. I remember the School Building Program. The state regulations said the best educational environment is 40 acres of rolling wood, rather than my program, which was to rebuild and expand the existing high school in downtown Lowell, which served so many other planning objectives and, by the way, saved the state at least one third of the cost of creating a new school. But this was state policy. The state sewer program had bonus points for sewerage cornfields, rather than rebuilding existing city sewers. Program after program, was just crazy, built upon premises that no reasonable person, let alone planner, could support. So all those programs had to be changed.

When we got into the debate about a national urban policy, I made strong arguments to the Carter Administration back then, that unless you have state governments as full partners in the planning process, to support urban revitalization or any other planning goal, then you are going to fail because 80 percent of federal infrastructure funds go through state agencies. And whatever the federal policy guideline is, unless you have a governor and a governor's administration, fully in support of a planning program which makes those federal dollars reinforce state planning objectives, you are going to fail. So programs had to be changed.

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And then at the end of all of this, obviously, you needed to have projects that made manifest those new policies, using those programs that you've transformed at the state level. Now, all of that is great but it comes down pretty heavily against cities and towns and regions that may have better ideas, much better ideas. How many times have we seen across this country, states that were really the last to find out what good planning might represent. But to provoke a debate about what were the best ideas and who had them, I remember we spent the summer of 1975 producing this document. Some of you remember this document called "Towards a Growth Policy", very provocative. But it was also extremely critical of the state and the way the state operated and every state program was criticized in terms of the pernicious effects on rational land use. We had a lot of fun with this and there were lots of conferences and the same kind of spirit that I see emerging now existed then. In very similar circumstances. The state was in a recession back then. The state had no money. Everyone was pretty depressed about things. And we were talking about land use, we were talking about location of growth, quality of growth, in a situation where a lot of people were desperate for any kind of growth at any cost, in any location.

It's in these down times that you have an opportunity to change the mindset and change the vision and the values of people. Back in Lowell -- the best opportunity I had was when Nixon shelved the urban renewal programs, and all the HUD programs, back in 1973. So instead of spending urban renewal money to knock down mills, filling canals and trying to build a Burlington Mall in downtown Lowell, they would listen to me. And so there were real opportunities in these down times, to change the agenda dramatically.

This all led to a grass roots, citizen participation process and a process I think that resulted in a lot of specific changes in the way we did things because we went out and invited people in. We didn't mandate that they participate in this process but we invited them. We provoked them to pay attention to the issues and we invited them to form local growth policy committees which got across these balkanized jurisdictions at the local level where planning board doesn't talk to selectmen, doesn't talk to the finance committee, doesn't talk to the conservation commission. The legislation that we passed called for these local growth policy committees to have a representative from all these town boards and committees as well as citizens in general and invited them to participate and fashion and frame a local growth policy statement. To further guide them there were questionnaires prepared by the State Planning Office raising all of the key issues in very simple, straightforward English. You didn't have to be a technician and you didn't have to hire a \$200,000 master planner to do this stuff. And surprisingly 331 out of 351 cities and towns participated in the process and produced superb statements as to what they wanted in terms of a future vision for their communities. That's what so often is missing in planning, master plans and zoning. First questions are never asked. And these first

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questions have to be asked and they are questions that any simple person in a community can understand. "What's good about your community? What's bad about it? What do you think of your town center?" Basic fundamental things that people can come to grips with and relate to and through these discussions can begin to put together a series of goals, a semblance of a vision for what the community ought to be, that ought to guide everything else--zoning ordinances, master plans, you name it. And this is exactly what happened.

Unfortunately, much of all this was not durable because none of this was institutionalized. The good thing that came from all of this is that there was a lot of education and the beat continued to go on, even when we all disappeared, because a lot of people developed a pretty heavy investment from the local level up in a changed way of doing things. The city council in Brockton (Dan, you can probably recall this) had a unanimous vote urging the new King Administration to endorse executive order 248 which had state offices locate in downtowns, rather than leaving downtown for the suburbs. Sure enough, he's done it again. Paul (Tsongas), how are you. You will hear from me later.

IAN MENZIES: If I might ask Chancellor Penney to introduce our keynote speaker, Senator Paul Tsongas.

SHERRY PENNEY: Thank you, Ian, very much. Let me first of all, as Chancellor of UMass/Boston welcome you and say how glad we are to have you here today from cities and towns far and near. It's a varied group of eminent speakers, an important topic and a very important audience. This is the third year that the McCormack Institute has sponsored a conference such as this and just to give them a plug they like to sponsor conferences to bring together interested citizens and public policy makers to address important issues. As a public institution we think that's one of the most important things we do here. I won't make a budget speech because Paul has heard it. I will just mention that we've lost six million dollars of our state appropriation in the first 14 weeks of the year. We are losing another three million. In spite of that, we want to continue our important public service in such things as the McCormack Institute.

No one knows, I think, the story of our struggle better than Paul Tsongas and I suspect he however, like me, is happy today not to have to talk about the Massachusetts budget or the impact on higher education. All of us think of Paul, I think, a little differently. Some of us know him as the distinguished U.S. Senator. Others like myself, newer to Massachusetts, have watched with admiration his battles on behalf of higher education. A few of you may remember him as a U.S. Representative from the 5th district or as a Middlesex County Commissioner or even 20 years ago as a Lowell City

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Councillor. Some probably admire him as the author of two distinguished books, The Road from Here: Liberalism and Realities in the 80's published in 1981. And Heading Home published in 1984. The prominent Boston law firm of Foley, Hoag and Eliot probably thinks of him as one of their best lawyers. All of us think of him as a man very much in courage and integrity. Although he sometimes describes himself as a loose cannon, he is unfettered in his desire to speak out and we appreciate that and I publicly again want to thank him for his help and his support. Today you will hear from him, however, on a facet of his interest that perhaps is not quite as well known, preservation of the environment and how to perceive some sanity in growth which he has addressed in his strong support of a new type of regional entity, the Cape Cod Commission. So it's a privilege once again to introduce Paul Tsongas.

PAUL TSONGAS: Thank you and I apologize for all this. Dr. Wang's funeral is today and I'm an usher and have to be at the Harvard Memorial Chapel at twelve. I thought -- you are all looking at your watches. I thought that I had -- my office had informed Ian but apparently not until about an hour ago and he called me up and under threat told me I would have to come over here and I said I was meeting with John Silber and that didn't make any difference in terms of -- in terms of the threat and so I said well, I would ask John if he would be so kind if we could talk in the car on the way over and then talk in the car on the way back, and he agreed immediately and so I'm very grateful. It would have been very easy to say no because we had this planned for some time. What conclusion you draw from the fact that we are together is yours to mull. (laughter) And since I'm going to leave very quickly, I've just wanted, all, you've heard my jokes before so if you can remember them and chuckle now, we'll get that out of the way. (laughter)

Today, as I'm sure you know, is the vote and if the Cape Cod Commission is voted down, then we've really been set back. Armando loses his job, or should lose his job because he's in charge of all this. And I will lose the -- my reputation for being ahead of issues before they don't collapse but I think we are going to win and I was on WRKO with Howie Carr yesterday who said he was opposed to another level of bureaucracy. I said well, Howie, what's your alternative? Well, I'm opposed to any level of bureaucracy. Well, I said you can't just want more of what you see. What would you have instead. Well, I'm opposed to another level of bureaucracy and I thought that moment, that rich moment, interacted with one of the great minds (laughter) of our time. Really epitomized what this is all about. The fact that we are so caught up in rhetoric that the quality of life issue is lost. And let me speak to why I've been involved with this.

There is no question in my mind that the United States is in decline. That is, to me, a given. And how much of a decline we can argue, but when they talk about the rise and fall of empires, and I hesitate because John is the expert in understanding history

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and that kind of thing but I will just give you a lay person's interpretation. The question in my mind is whether the decline that we are in is irreversible or whether by some -- you know, sad fact of how cultures operate, you cannot reverse decline, that we are simply going to live out the decline and our children will have a much lesser life than we have had. There are many ways in which this is exhibited. Let me -- the ways that you may think are silly. One is, we are going deeper and deeper and deeper into debt. You have BTR coming in and taking over Norton Company. Norton Company, I'm involved with, why it's so recent in my mind. We were at the University of Lowell yesterday talking to a professor of materials and if you don't have abrasives, you can't manufacture metal. If you can't manufacture metal, you're not -- you're nothing and during World War II they tried to take out the abrasives factories in Germany as a way of crippling the Third Reich and now we are about to lose it and nobody cares. Things like economic loyalty. We are not a culture that is strong enough that economic loyalty means anything. I don't know how many of you drive foreign cars. If you drive a foreign car, you are taking your money and sending it over to a country which is competing with us and exacerbating the decline. I drive behind somebody who drives an Isuzu I get angry. But it's hard to get people to understand, the reason. I'm not saying "Buy American." I'm talking about understanding we are in this boat and the boat is sinking. And we've got to somehow reverse the decline, and that's why in my mind the most important issue is the culture of a society, that culture strong enough to compete.

You know there are perverse cultures. If you saw the Globe today. And the ceremony of the Mafia, the Mafia ceremony. Well, it's an abomination, but what it is are people who have a sense of who they are, all to the wrong reasons. And yet you look at the United States and you have to ask the question, whether this country is capable of a culture that can compete with a Japan, which is a monocultural society that goes back centuries, or a Germany, or wherever. And it seems to me that the environment and education are critical components of culture so that people exist in environments that lift them up, that make them greater than they would have been otherwise. You can look out at something like this and speaking more specifically about Massachusetts, we are competing on the world stage. So Wang Laboratories competes with companies not only in Massachusetts but around the world and so do all the other companies here. So part of what we have to think about in Massachusetts, in New England, is whether it is possible to create a separate culture almost in this state and in this region that is so strong that it is comparable to the cultures that these other countries have who our people are competing with. And part of having a culture here that is strong is having an environment that people want to exist in.

If you look at the Massachusetts Miracle there is no politician responsible. The fact is the Massachusetts Miracle is a function of having the educational institutions here

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which spun off these brilliant people like the Wangs and the Olsons who formed the companies. The only reason we are going to survive as a long term economic entity is if the environment is such that our good people who are at these colleges and universities want to live here when it's over. So when they graduate they don't take the germ of a company in their head and go somewhere else and that company grows there. But they stay around here. And so the investment in the environment is an investment in the basic infrastructure of any economic development scheme because if the average student graduates from this campus or MIT or BU or whatever, decides, I don't want to live here, we have no future. It's that simple and part of any definition of quality of life in Massachusetts is Cape Cod. Those who go there, those who would like to go there, those who may never go there but it's important to know that it exists, that if Cape Cod becomes Coney Island and I'm a young graduate student, just graduated, why would I stay? If you muck up New Hampshire and try to get all the world's billboards in one state, (laughter) in this great endeavor of the free market system, why stay here. Why not just go to Research Triangle or go out to the Bay Area or go out to Austin, Texas or go out to Minneapolis or go out to Seattle. And if they get to the point if that is what people decide to do there is no future. So in addition to the US decline which we are all prisoners of in some way, we will exacerbate that by our own decline. So that the preservation of the Cape, the quality of K through 12, the commitment to public art, those things which strengthen the culture of a society are critical to our survival and the great sadness in my mind is that of all the people who should understand this, it should be the business community because it's their work we are talking about, it's their survival we are talking about, and if you saw David Nyhan's column today, I think it was very apropos that today we bury Dr. Wang, who in addition to being a brilliant technologist and a great businessman, understood the link between society and business and that it's a two way street and yet in this state we have the High Tech Council.

What if I said to you this story, that the Japanese decided ten years ago that they wanted to be the world's premier economic part, which is clearly what they are and they decided and you know they all get together -- not like us -- and they decided to take out two systems, Massachusetts and California. So they said to someone you go to Massachusetts and you work to do two things. Pass 2-1/2, to blow away local school systems, and then when things are just about ready to topple over the edge, introduce the CLT petition. So when that passed this Massachusetts public her education in K through 12 will be destroyed and therefore there will be no workers competent to compete with us and then all we have to worry about is California and if you do that, we'll give you millions of dollars. So the fellow gets on a plane, comes over here, lives in Boston, picks up the paper and sees ah, the High Tech Council and Citizens for Limited Taxation, spends his time at the beach, for ten years. Then next November goes back

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and collects his millions of dollars having destroyed one of the two states they have to worry about without lifting a finger. We did it to ourselves. And so if we go into decline, we deserve it. And to have the business community be the lead, the High Tech Council bringing that about. High Tech Council should be doing everything they can to prevent what's happening to this campus. The High Tech Council should be down on the Cape, demanding land use reform so that the CEOs and the other executives they want to recruit have some place that they can go and make it livable. What we are talking about here is not tree hugging, it's our own economic survival, and if we don't get to understand that then in a very Darwinian sense we will inherit what we have sown.

That may be all right for us, because we did it to ourselves but how do you explain to your children, our children, that we lived off the fat of the land. All the resources that generations put together, our parents gave to us and we sat at the table and stuffed ourselves and got to the point where we lost the toughness and the will and then we fade off having given away our patrimony and they have what's left. It seems to me if there is one notion of sort of parable is that a former president who sat there for 8 years while we went into this enormous debt, feels no embarrassment about going off to Japan and collecting two million dollars to give a speech and what the Japanese must think of us. They are just taking us to the cleaners and we have no sense of wanting to fight back. Well, we are going to fight back and part of the way we are going to fight back is we are going to have a culture that's strong enough that we can fight back and the critical components of that as I said, education, culture, public art, the arts, theater. We've cut back on the Council of Arts and Humanities in this state and I think critically important is the environment not only on Cape Cod, but as Frank has said, down in the cities, making the city viable, livable to those who live in these places, making sure they are uplifted by the process of living there and have a sense of themselves strong enough that they can compete over the long term. So that's the good news.

Now let me get to the bad news of my speech. I feel very strongly about this because I'll be damned if I'm going to sit back just as one individual and watch 200 and whatever it is number of years of work that made this country what is just dissipate because we didn't have the will the discipline and the work ethic and the commitment to quality of life that we should have, and at least if we are in an irreversible decline and our children some day say what happened that we can at least say to ourselves, well, we tried. And that's the process that we are engaged in and I think today on the Cape that to be a reaffirmation of that. I think people are ready to understand that this is indeed the decade of the environment and the quality of life that will enable us to have a culture which can compete. Now, aren't you sorry that John agreed to let me come here and give this speech?

(applause)

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IAN MENZIES: I'm just going to say (continuing applause) I'm sorry he can't hear it but I'd really just like to say that was a call that is heard too little these days, a call to think about posterity, about future generations and I thank Sen. Tsongas most sincerely, not only for making a special effort to come here despite the sad circumstances but for his inspiring words and thoughtful thoughts. I really believe if he wasn't around here we would have to invent someone like him. Now, excuse me. Can we go back. Frank, do you think you can pick up where you left off. I hardly have the chutzpah to ask you to come back up here but I would appreciate it if you would.

FRANK KEEFE: I don't think you can invent a Paul Tsongas and I've often thought about the City of Lowell and how it jumped out there. So much depends on good luck, in having a Paul Tsongas, a Pat Morgan and just a few other people who can make a big difference and Paul throughout his life has made a big difference. His comments are interesting. He was the darling of the High Tech Council and he forged a tremendous alliance with them. Now that things have become so polarized over the state's fiscal goals, it's pretty clear that he's taking a very different direction these days from the High Tech Council.

I was talking about the education that occurred during that growth policy process and how that allowed the beat to go on. But the beat got softer and softer and softer because we never strove to institutionalize the good things that occurred back then. And nonetheless it was all for the good. I believe in progress. I do tend to sound like a Pollyanna about a lot things. But a lot of good things happened back then. Financing mechanisms were created with MIFA, the Mass Technology Development Council, the Mass Capital Resources Company, the Government Land Bank, you name it, all sorts of good vehicles to promote urban economic development occurred. Historic preservation, and the model of historic preservation as the economic salvation for communities, became firmly rooted. Remember just a few years ago, you were pretty weird if you believed in historic preservation. You were goo-goo. You were on the fringe of things. I know because when we came out with these arguments in Lowell, we were thought of as revolutionaries, guilty of sedition. But now this is the way we in Massachusetts do things. Historic preservation is the cornerstone of so many revitalization efforts all across the state and from city to city, town center to town center, historic preservation has been the vanguard in redevelopment efforts. I think that's a durable benefit from those days. But the purchase of agricultural development rights, tremendous open space acquisition programs, the City and Town Center redevelopment programs, all of these things came about from that period.

Unfortunately, the underpinnings of all of this--that is the vision, the animated drive to make the quality of life in Massachusetts better, preserve the good things and get rid

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of the bad things--got lost and became weaker. A whole generation of local leaders that went through that process, that received the education, had those commitments, they got tired, as one of the other speakers said. You know you're into it for two, three years, maybe five years. But after a few years a whole new generation of local leaders arises and that happens every five years or so. The ongoing nurturing process as to what sensible land policy is all about, what we should really want as a state community, as regional communities, as city and town communities, as neighborhood communities, that was missing. A vision for land use, for a sensible growth policy needs to be nourished and sustained and those issues have to be revisited on a regular basis. So I believe in progress but there is much that lies before us.

I have three doubts that concern me about the Commission's Report. I think that I can be provocative here and hope to stimulate some debate. One, I think it relies too much on new regional entities, on a new stronger level of government requiring passage of major new laws in Massachusetts and fundamental change in the ways in which we have done things and do things. My second doubt is that it calls for a lot of new legal powers rather than better integration of existing legal powers. Certainly new legal powers are necessary but do you lead with that? I doubt it. Finally, the report suffers from being too "plannerly." Certainly, let's have plans; let's have master plans! But there is not enough of getting at the underpinnings. What is the vision? What are our values? What are the common sensible next steps to improve community quality? I don't see enough of these issues, these aspirations in this document. Interestingly, the document does reflect concerns about community character. People want change, they want new development, they want better incomes, they want a better future for their children. But, at the same time, they want community character to remain the same. And I think the resolution to that dilemma is the emphasis that comes out of the Commission's Report which is to build upon your strengths and build upon where you've already made investments. And that translates into a policy of building next to existing developed areas and redeveloping old cities and depressed sections of cities and concentrating new development in town centers. Don't let the town center bleed into an endless strip of shopping centers and fast food chains and gas stations so that you don't know if you are in Bedford, Burlington or what have you. Too many parts of greater Boston are like that.

But let me quickly throw out what I think ought to be the components of a law that could pass. First, I think that we ought to institutionalize the State Planning Office and rather than simply serve as a synthesizer and integrator of new policies and regulations, it ought to be very proactive. It ought to be cabinet level, super cabinet level. It ought to be appointed by the governor and it ought to have the function of integrating all of the development and environmental functions of state government and it ought to take full

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charge of a coherent, statewide comprehensive planning process. It ought to have authority to make sure that rules and regulations guiding various programs are consistent with that plan and it ought to be the lead for intergovernmental relations on these issues through regional planning agencies to city and town efforts. The new office should set forth clear goals and priorities for the administration of programs, and it ought to superintend all major regional development projects, insofar as state and regional government are involved.

Second, the new legislation should mandate a growth policy planning process every two years, and the state ought to do the questionnaires, and come out with a tentative outline of goals and objectives. The regional planning agencies ought to be involved after the cities and towns are invited to participate, and the regional planning agencies ought to create a regional vision, and that ought to happen every two years. This would keep the education going, keep the momentum going; we would constantly refine the plan and make changes. The wonderful thing about planning is it shouldn't be static. It should be constantly changing based upon new ideas and information. And these, these local committees ought to be cross jurisdictional, all the local boards and commissions and authorities ought to be on there so that there's a distilled, coherent, compelling vision of what that community wants to be like.

Third, I think we could legally mandate consistency between growth policy statements, master plans, and zoning by-laws. I think if you have this kind of process you could take that next step.

Fourth, I think the proposed legislation ought to make it very clear that all state programs must be consistent with this growth policy vision for the state, and all state programs ought to be administered in regions and communities consistent with local growth policy statements and regional plans. We could even think about increments to local aid as a special incentive for compliance with this planning process and goals.

And, fifth, I think other regions of Massachusetts ought to be empowered to follow what's happening on the Cape, and what's already happened on Martha's Vineyard and Nantucket. I think we ought to include in this new law a local option process for other regions to elect to go in this same direction, rather than having separate bills for each of these regions. There ought to be a local option bill for them to go the way of Cape Cod. I think it could work in the Berkshires and maybe Franklin County. It will be tougher in other regions, because the disparities between communities in outlook, goals, economy, and social fabric are far more extreme. But still I think we ought to enable communities to form these regional coalitions, to do more than just talk to one another, but actually move in the direction of fulfilling a regional plan.

Finally, I think it would also be interesting to think in terms of comprehensive permits. Boy, there's one way to get the development community to pay attention to all

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of this. If you could say to them, rather than going through a totally incoherent labyrinth of approvals, where you're held up by one board, and then another board, they would instead have to just go through a coordinated, coherent review process. We could consider such a state review process, based on this three-level comprehensive planning process, and have one yes or no in the end. In the past, environmentalists were concerned about this idea, but I think you can do this by not making any sacrifices on the basic legal tests for wetlands protection and air quality protection, and what have you. If you could pull local government together, pull regional government together, and pull state government together in this way, you'd get a lot of attention and a lot of support, I think, from the development community, and eliminate a lot of what otherwise would cause unproductive debate and disagreement.

So I think these are the components of initiatives that could happen. And this would not cost a lot of money. It is doing better the things that we're already doing, and that would be the next step. And further legal steps to empower one level of government or another, I think, can wait. But in the near term, I think we should look to a way of institutionalizing comprehensive planning, advancing various land use goals, and reconciling and resolving some of the conflicts among these goals for the future of Massachusetts.

IAN MENZIES: Thank you very much Frank, you've picked up very nicely after that break. Any questions? Yes!

AUDIENCE QUESTIONS: Shouldn't we try to get a commitment before the final election from the candidates, on growth and land use legislation?

FRANK KEEFE: No doubt.

AUDIENCE QUESTION: It should not cause very much of a financial strain, and this is a very, very important question of leadership. We don't have that yet. This is one thing at least that we ought to push forward with.

FRANK KEEFE: It's true, you can change all the laws in the world, but if the next governor doesn't care about these issues, forget it. Even if this law I outlined here, or the commission's law passes, the next governor, if he doesn't care about these issues, there will be no progress. So the most important thing you can do is educate all these candidates. Believe me, I don't think any of them are up to snuff on these issues now. So a lot of education has to occur, and then you're absolutely right, in the end, if there is a proposal that a Thousand Friends, or the McCormack Institute and various lobbying

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groups can all support including the environmental community as much as the development community, then by all means let's go out and get an endorsement of that bill. I think opportunities are very, very great. What's unfortunate is that there is so much education that has to go on for all of the current candidates.

IAN MENZIES: Yes sir.

AUDIENCE QUESTION: I find that the majority of people that are dedicating themselves on planning and zoning boards do not have the expertise of the majority of you people here today. I think we should get down the basics. We have a lot of community colleges throughout the state. Why isn't there some legislation passed to have these people on the zoning board, or planning board take a course for a year at one of the community colleges at the expense of the Commonwealth of Massachusetts, and at least we'll have some of the people know exactly how the ball game is played. And then you can play the ball game.

FRANK KEEFE: The whole point of the community colleges is to provide just that kind of education. Again, I think there is knowledge and expertise in the unrefined, nontechnical citizens in all these communities. They have a lot of wisdom that a lot of planners don't have, and I think you still have got to ask those basic questions. I was absolutely overwhelmed at the quality of local growth policy statements that came in. Some of them were sheer poetry, about their community. They understood their communities, they knew their communities, and loved their communities. Your idea is a good one, for short money you can develop some technical skills, but you still have to have the poetry. And the poetry is what makes all this magical, and it's what makes people commit themselves and make sacrifices. It's the kind of poetry that Paul Tsongas comes out with from time to time, and I think that's very important.

IAN MENZIES: Frank, you've touched on it, but I'd like you to make it even clearer. How do you think we should go about getting these changes now? By the groups, as you say, getting together first, with whom? With the legislators? With this commission? Where is it going to start? You and I are familiar with the old growth policy committees, and that was a movement from the grass roots up. Do we have to do that again? What do you think? I'm just trying to sharpen the focus on how we do it?

FRANK KEEFE: I think any kind of heavy, top down planning is a mistake. However, I think it's good for a state to be provocative. When you have a blank blackboard, and you say "Well here it is, what do you want?" You get very little in the way of a response. If

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some pretty aggressive person, talkative person gets up and says "This is what I want," then you can more easily generate a reaction. And I think you need someone to play that role, maybe it's the state, maybe it's the regional planning agency. Someone's got to go in there and put something on the board so that people can focus and react, and say "Well I don't want that, this is what I want." It helps them crystallize in their own minds what they would like to see. But I think a consensus bill would be great, I think everyone ought to pay attention to what's achievable, versus what is not achievable. I think expectations ought to come down a little bit, and people ought to proceed with getting gubernatorial candidate endorsements for that initiative. And I think something could pass in the fall.

AUDIENCE QUESTION: And you would put it around Buell's commission.

FRANK KEEFE: If they want to work in that direction, yeah. Again, I think what is in this report is a bit too ambitious, might intimidate a lot of people. It calls for too much in the way of restructuring government. Sometimes reorganizations are an excuse to not do what you're legally empowered to do anyway. We just don't want to do it, that's what I've learned over the years.

IAN MENZIES: Good. Any other questions? One way back.

AUDIENCE QUESTION: How can we deal with communities that don't want to grow even though the RPA has targeted them as regional growth centers? Don't we need new strong regions?

FRANK KEEFE: I don't think you invent a new level of government in order to resolve that kind of fundamental issue. Massachusetts is a small state. I think the state government is empowered, has all the laws in place, to resolve those kinds of policy issues. And, I think if you had a state planning office you could sit down with the communities involved, the regional planning agency, and resolve these kinds of conflicts. It takes time perhaps. Then state infrastructure policy should follow those regional and local policies, it seems to me. But I think the powers are there. What's not there is the policy vision, and the administrative commitment to see it through. I think you have to institutionalize the planning process. I think you have to make the state a better partner in this process. I think what's happened in the last few years is too much projects administration and coordination, and not enough policy work, except in categorical areas such as housing, transportation, and the environment. But it's got to be integrated, brought together, so that the whole is larger than the sum of it's parts.

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IAN MENZIES: One more. Yes sir.

AUDIENCE QUESTION: Frankie, you had your chance to institutionalize the Office of State Planning, and it didn't happen. Now you are saying that the next state government must have this office. We've heard a lot about local planning. Is there anything that, could happen soon that might help justify the need for planning?

FRANK KEEFE: Well, one alternative would be to actually mandate a process, and see whether or not the existence of a state planning office would emerge from that process as being a good thing. And that might make it easier for the state to create it. But, it's interesting, this whole approach that I am calling for is not dissimilar to what was tried in California. And someone told me that it's been just newly tried down in Georgia. And New Jersey's finally getting around to it. I don't think we're calling for anything revolutionary. Now let me provide a little bit of an apology for our failure to institutionalize OSP. While we were having so much fun doing it -- that is, state planning-- we didn't think we needed legislation to make permanent the office of planning. And the Governor was reluctant to clog-up the legislative agenda if we didn't need to. I was glad to go along with that, because until September 19, 1988, I thought we were a sure thing for a second term, with plenty of time to institutionalize and make permanent the good things that we had done. I was as surprised as anyone at what happened that night. We spent the last three months of that administration trying to make sure that the Copley Place and the Pittsfield Malls, in downtown Pittsfield really happened. By the way, I'd love to talk about malls sometime. That's what we spent our time doing. We knew we couldn't get a bill through, even a limited bill to institutionalize the Office of State Planning. So that's an explanation as well as an excuse.

IAN MENZIES: A quick one down here, and then we'll go on.

AUDIENCE QUESTION: You say the existing power is there to be used, and so on. I think it doesn't recognize that there needs to be some kind of area wide, mid-level, governmental entity to deal with area wide concerns. We need some kind of alternative over and above what we presently have. That's pretty clear, I think. Not enough guidance has been given, from the state. I think the state should be providing it, but during the last two Dukakis administrations, we haven't had an Office of State Planning. We haven't had that kind of guidance from the state, we've had a lot of independent secretariats.

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FRANK KEEFE: Just a quick response. I didn't say we have all the powers, I said we have most of them. And I think that for additional powers at any level, I think we need to take a few more steps. I firmly support the notion of local option legislation enabling regions to go the way of the Cape. I think, however, imposition of that kind of mid-level of government is a big mistake. I don't think it'll happen, and I think in a lot of places it a) won't work, and b) never happen.

IAN MENZIES: I'm going to move on from there, and as I mentioned earlier, Armando has very kindly agreed to be our luncheon speaker, and so we've sort of played ring a ring a roses, but I don't think it's altered the depth of discussion.

And now as anchorman, I introduce an old friend, Gregor I. McGregor, with whom I've exchanged panelist seat duties in the past. I would say that Gregor is one of New England's best known lawyers on environmental issues. He is however, not only an environmental litigator of renown, but also a teacher. His cases in court have broken new ground in the law of environment, environment impact statements, wetland protection, land preservation, home rule environmental legislation, and the doctrine of "taking without compensation." He has been in private practice since 1975, with the Boston environmental law firm he founded, McGregor, Shea & Doliner. Before that, he was an assistant attorney general, and the first chief of the division of environmental protection in Massachusetts. A graduate of Dartmouth and Harvard Law School, he teaches environmental law at Tufts University. I am very pleased to introduce Gregor I. McGregor.

GREGOR MCGREGOR: Thank you Ian, it's always nice to work for you. And thanks to the McCormack Institute, for inviting me to speak and for hosting this wonderful event. Something Ian said about Paul strikes me as appropriate for Ian. If there weren't Ian Menzies as the great reporter and editorial page writer of the Globe, and still inspirer of us all with his articles, if there weren't an Ian Menzies as the senior fellow at the McCormack Institute, we would have to invent an Ian Menzies.

I want to congratulate the special commission, even while I fulfill my duties to Ian and comment on the final report with critical support. There's no question that congratulations are due to Carmen, and Carol, for having found a way to answer the key question posed in the report, How will Massachusetts manage change? I agree with the answer in the report, that we need to reform our land use management. And I'll tell you why I feel that way in a moment. The report calls for an integrated, coordinated land use planning process. It says we should define where development belongs, and where it doesn't. It says we should invest in our future, in particular housing, transportation, water, and sewer, and other infrastructure. And incidentally, there's an intimation that we

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should use our infrastructure to guide growth, rather than simply respond to it. And then the report recommends new legislation.

The particular new legislation the report recommends can be open to discussion and debate. The new legislation it calls for is in the form of a law announcing state growth policies, requiring local plans, and requiring local and regional plans to be consistent with the legislatively declared policies. The law that would tell government agencies (state and local) that their regulations and decisions shall also be consistent with the plans. Equally important is the vision, or new ethical approach, embodied in the report. I think one of the most brilliant statements is that the economic future of Massachusetts is inextricably linked with the quality of life here. On that, I think virtually all of us will agree to agree. We should be thinking afresh about land management.

First, land management is in fulfillment of our stewardship obligation to our resources, our natural and cultural resources. Second, we need to create a land management scheme that recognizes that the goal is to have sustainable development. Now these terms, stewards of our resources, and a sustainable economy and environment, are mentioned only a couple of times in the report. But in those two notions we find the central ethical concept around which we could galvanize reform of our land use management.

I note on the agenda, Ian, from the topics assigned that the role of the state has been addressed. The role of regional government was addressed. I'll comment on the role of municipalities, in all of this.

IAN MENZIES: Good.

GREGOR MCGREGOR: I feel that we had better get our act together on land use, or this will be done for us by referendum. Now, if you have been to California, and you like government by referendum, then by all means let's continue to debate this, let's allow the June 1990 date in the commission report for a statewide land use conference to just slide by, and let's wait until some leader picks up the ball. And then we will have government by referendum.

Occasionally, referenda work just right. But believe me, Proposition 13 in California, which started the tax cutting craze, and more recently, Proposition 65 dealing with toxics in the environment, show the limitations of legislation prepared by special interest groups. I won't say public interest groups, because, no question about it, the folks who sit down to write these referendum questions are representing narrow interests. These special interest groups do not know how to draft legislation. And they do not represent a cross section of all those who are affected by the legislation. Witness in California, two Novembers ago, when more than 100 referendum questions were on

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the ballot. And of the six, I think, dealing with insurance reform, several passed. And they're inconsistent with each other.

Picking up on something Paul Tsongas said, about our boat sinking, I'm very worried that our reaction appears to be to tell each other that "your end of the boat is sinking." I think Massachusetts has the strongest environmental laws on the books in the nation. And I think it has the weakest, and silliest land use laws on the books. We have our Clean Air Act, one of the strongest in the nation, extending beyond the six criteria pollutants of the federal law, and reaching other contaminants, plus odor and noise. We have a Clean Water Act, going far beyond the basic permit approach for industry and secondary treatment for government discharges to reach non point discharges of pollution, and to protect groundwater, not just surface water. We have hazardous waste laws that actually have a siting process, judging the appropriateness of the site of hazardous waste facilities. We reach petroleum products in our hazardous waste laws. We license transporters, rather than just register them. We have a Superfund law which allows the state to impose a super lien, to collect cleanup costs. We are one of only six states that's gone so far as to have a contingency plan, a Massachusetts contingency plan for responding to contaminated real estate. We passed the first Wetlands Protection Act in the world in 1963, and now we have one of the toughest sets of regulations: a virtual ban on work in vegetated bordering wetlands.

We have one of 28 environmental policy acts, different from all the others, in that we have an agency, the MEPA Unit, which can mandate an EIR, which determines its scope, and which judges its adequacy.

We have a Water Management Act which requires registration of large withdrawals. We have an Interbasin Transfer Act which elevates to the highest level of policy that thou shalt not, without very good reason, and careful long term consideration, take water from another watershed.

We passed what is still the only Wetlands Restriction Act in the nation, allowing the state to proactively announce what critical wetlands ought to be protected. We have an Agricultural Preservation Restriction Program, we have a Scenic Rivers Act, we have a Scenic Mountains Act, we have a Scenic Roads Act, and we have several other laws that, while not as good as New Hampshire's current use assessment act, do take a stab at protecting forest and farmlands by giving tax breaks.

Good as these are, as you appreciate, the environmental laws have loopholes. They by and large operate after the fact, after someone has proposed something, applied for a permit. Agencies, when their staffs are cut, are hamstrung in implementing the basic permit approach to environmental protection. Environmental protection laws alone, without land use laws, will not be enough. Let's see how we are doing with our land use laws. We have a Zoning Act which does not require a link between zoning and

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master planning. Unlike New Hampshire. We have a Subdivision Control Act, which, unlike most other states in the nation, does not allow the local board to mandate dedication of some of the land for public purposes. We do allow our planning boards to require the reservation of land for parks. But that's merely a local option to buy the land within three years. Elsewhere in the nation, dedication or exaction is allowed.

We have regional planning agencies which by their statutes are limited to being advisory only. We have no large state land use law dealing with developments of regional impact, or protecting resources of regional importance. We have a coastal zone management program that, as explained, is not backed by a statute. It is, rather, "networked," using the existing powers of the agencies, unlike California. And our coastal zone management program does not bring in cities and towns. It in no way changes the powers and duties of cities and towns, unlike Maine.

My major disagreement with the commission report is that it indicates in so many words that we shouldn't act on pending proposed changes in the subdivision and zoning law. It takes no position on grandfathering. Yet we're the only state in the nation that grandfathers plans filed under the subdivision law for eight years. I have never found another state that gives any freeze protection for an approval not required APR plan. And I know of no other state that freezes board of health regulations for three years in the face of a plan.

To me it makes no sense to continue to allow a proposed subdivision to freeze zoning and board of health regulations. Anybody who can zing in a plan by 5:00 PM the day of town meeting. Arbitrary grandfathering hamstring not only planning at the local level, but also local decision making, implementation of the law.

Where I agree with the report is its call for proactive planning. We need to build incentives for growth to occur where we want, and of the type we want in order to sustain our resource base. Where I differ is in the report saying, essentially, that we should wait a bit, until we draft a bill, file a bill, debate a bill, and hope to enact a bill making sweeping changes in relationships between our levels of government and creating new governmental entities. My reason for this modest pessimism is that the state presently has no money for planning, and we have no state planning office to take the lead. The commission has no staff to draft a bill. The state has no political leader jumping to the front. The commission report itself is not a consensus report, on behalf of the development community, the environmental community, and municipalities, although of course they all had opportunity for input.

Another cause for pessimism is that there is a new, very effective coalition of industry and development interest in the legislature. There's a trend to cutting budgets of municipalities. Some town officials are tending to look for development money, any kind of money, from development for the community, now that we're having some hard times.

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On top of this the report calls for new laws and new legal entities.

I'm not willing to wait, and so my message to those of us who are given the opportunity to be active at the local level is this. Don't wait for this bill. Don't wait for the State House. Certainly don't wait for the White House. You don't have to wait. Unlike the vast majority of states in the nation, and unlike all the other New England states, we are a home rule jurisdiction. Of course it is true that we'll have to wait for a restructuring of government, we'll have to wait for new powers for our Regional Planning Agencies, and we'll have to wait for any mandated state planning policies. Remember, though, that slogan about life being what happens while you're making your plans.

I think there's a lot we can do starting tomorrow morning to reform land use planning and control. Looking around the room, many of you are already leaders at the local level. You've already begun to form regional partnerships on your own without being mandated by the state to do so. We've got the South Shore Coalition, MetroWest, the Lower Pioneer Valley, and the Southeastern Mayors Partnership. We've got towns protecting their aquifers together by passing parallel zoning, protecting regional drinking water supplies.

We need to beef up our state environmental laws and land use controls, now. I'm not willing to wait for the passage of some omnibus legislation. I'd like to give you some bill numbers of pending legislation worth enacting this year. We've got a bill pending to reduce the grandfather protection to 4 years instead of 8. This is Senate 909. Vesting would occur only for developers who get plans or permits by the time there's a notice in the newspaper of the public hearing for the proposed zoning change.

There is a bill pending to eliminate the freeze of zoning by filing ANR plans. This is House 3967. There is a bill to authorize municipalities to charge impact fees. Senate 906. There's a bill to allow municipalities to require the dedication of parks and schools in developments (not just a reservation, so the town could buy land in three years) plus reservations of land for police and fire. House 3962.

Senator Barrett is filing a reservoir bill, to restrict land uses around drinking water reservoirs. Senate 1539.

There's a vital bill which would amend MEPA to allow the EOEa Secretary to issue administrative orders to stop work that's going forward without the environmental impact reports required by MEPA, and to build substantive standards into MEPA decision making. That's House 1744. Incidentally, that bill also would restore the powers of conservation commissions to enter private property to inspect for violations of the Wetlands Protection Act, a power which courts took away.

There are two endangered species bills, House 2540 and Senate 950. Bob Durand is filing a rivers protection bill. I don't believe that's been assigned a number yet, and he's also filing an erosion control bill, arising out of three years of discussions of conservation commissions and the soil conservation districts in Massachusetts.

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You know, I think the commission report makes clear there's enough work for everybody. And the problems are serious enough that they're beyond the expertise of anyone, beyond the powers of any agency. Nobody has a monopoly on wisdom as to what to do.

I will modestly offer my community report card as a measure of what you might consider doing at the local level while the rest of us are planning. The idea is to implement new approaches locally. I recommend heartily the adoption of a local growth policy, in bylaws and ordinances based on sustainable development. It should entreat all our boards to regard themselves as stewards of our natural resources.

If municipalities use the home rule powers already available to them, rather than waiting for the White House and the State House, we might see more optimistic bumper stickers than Jim has seen around recently. My favorite bumper stickers are these. First, I like the one that says "Sex maniac at wheel. Stop driver for details." The scariest one I saw, though, was on the bumper of a pickup truck with a gun rack in the window. It asked, "What have future generations done for you lately?" Finally, my kids gave me a sign for my office that I think embodies what I've said today. "Clean up the world tomorrow. Today just do your room."

Thank you very much. Thanks again for inviting me.

IAN MENZIES: Thank you very much. Have we, have we a couple of quick questions or . . . please.

AUDIENCE QUESTION: Is my impression of the law correct that, if one applies for a special permit, it must be granted if all the data requirements are met, and that the local board has little discretion to say no?

GREGOR MCGREGOR: Let me answer that as quickly as possible. My understanding is the opposite of yours. I believe special permit review is your major vehicle for building in performance zoning, with objective standards which must be met. The special permit bylaw where you put the wording that, unless the criteria are met and the board can issue affirmative written findings that they are met, the permit shall not issue. I repeat, special permit power is where you get most of your clout. If you want more authority, if you want to be able to judge the appropriateness, the overall appropriateness of the proposed use, you would want to adopt site plan review. So, I think you've got more power in your zoning than somebody may have advised you.

IAN MENZIES: Well, I'm going by the clock now but I really do want to thank the morning speakers for their terrific presentations and their great flexibility to adjust to

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changing circumstances. Now we will adjourn for lunch, and I hope that the speakers will mingle with the audience and take some follow-up questions. Thank you very much.

LUNCHEON

IAN MENZIES: Now let me introduce the luncheon speaker, the ubiquitous Armando Carbonell, because he really does seem to be everywhere at once, although I admit the word sounds too much like iniquitous, which he's not, so I won't, but you get the idea.

Armando Carbonell, executive director of the Cape Cod planning and economic development commission has fought long and hard for sanity on Cape Cod. For the preservation of that wonderful but fragile curlicue that has brought so much pleasure over the years to so many of us, including myself, and including Paul Tsongas. Armando began with an AB in, well he began earlier than that, what I meant is his actual academic beginnings were with an AB in geography from Clark University. He was also a doctoral fellow in the department of geography at Johns Hopkins. He was formerly a member of the faculty at Boston University, teaching urban and environmental analysis, and also a visiting faculty member in the graduate program in marine affairs at the University of Rhode Island. He is a founder and director of A Thousand Friends of Massachusetts. Katharine Preston listening, I hope? Katharine, are you there? That's the Executive Director of A Thousand Friends, in the distance. Armando also has his own consulting firm, Ecologia, which conducted a major policy study for the Hungarian Government, on the Danube River. I don't know quite what the study was, but as much as anyone, he is responsible for the legislature endorsing the Cape Cod Commission Act. But today, he sits with his fingers crossed, praying that Cape Codders will ratify the act. Armando Carbonell. And again I'm most grateful for your adaptability and flexibility. (applause)

ARMANDO CARBONELL: Well, when I saw my old boss, John Silber come up, very unexpectedly (laughter) I said, oh, oh, he's come to criticize my talk. But it turned out to be completely accidental. But so many strange coincidences, when you're in the center of action, here.

I want to talk about just a few things, and you know, I think the Cape Cod Commission Act is obviously very important for people on Cape Cod, but I suspect it could be important for those of you from elsewhere in the Commonwealth, who are concerned about some of the same things that Cape Codders are concerned with. And certainly, we are expecting a success today. We won't know until tonight if we've made it. I kind of think maybe Ian should have had this conference tomorrow, because I don't

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know, for those of us in this business, whether we'd really want to be in this business tomorrow, if this doesn't pass. But I -- I guess I just have to reflect the confidence of those of us who've been working on Cape Cod, and who think we know the people of Cape Cod, and you'll see in my remarks something of what that process has been.

I'm going to talk about really three things, but before I do, I want to just reflect a little bit on what's been almost 20 years for me in the land use and environmental field, and go back to the early '70s when I think we were in a very similar phase of considering all kinds of new legislation, and new initiatives, not just in Massachusetts, but around the country. But the three things are really the vision thing, which our president sometimes talks about not having. And how that relates to what we're doing. The patience thing, which all planners have to have. And the democracy thing, which I think we're seeing in an interesting way on Cape Cod today.

Some of the remarks of earlier speakers sort of take me back to Connecticut, where I was in the Department of Environmental Protection. For a while there I was their Chief of Land Use Policy, and we were trying to do a lot of the things that Frank Keefe was talking about, in terms of integrating all of the different environmental programs, and using them to reinforce land use goals, and vice versa. I worked for a fellow named Doug Costel who later established the most recent Vermont state-wide land use legislation, and he had a lot of interesting friends and acquaintances. And one of them was a newspaper editor. We looked not so much to the Boston Globe as towards the New York Times for some reason. Another was a fellow named Emory Bradford, who was an editor of the editorial page of the New York Times who lived in Vermont. He came down occasionally to share wisdom with us, in the state agency, and one day Doug Costel said, "Well, Emory Bradford is coming to talk to you today, about what you do, and you know, make time for him." And I swear I remember this verbatim. I had a conversation with him, in which the only thing he said, and it was one sentence -- he's a fairly imposing kind of a guy, very tall, white haired, and he wore a ten-gallon cowboy hat. He took the train down from Vermont, and walked across Bushnell Park to the State Office Building, and he said, "Armando, land use is a concept." And that's all he said, and I nodded, and I thought to myself that there was tremendous wisdom in that remark, and I swear to you he said no more to me, and I remember nothing else, but I think it's taken me about 20 years to really understand the wisdom of that expression. And I think what he was -- he just left out something, and that's what he meant, and what I should have understood at the time, was, land use is such a loose concept, in the sense that it is so abstract. And it is so impossible to explain to people. If what you say you're going about doing is land use, no one is going to appreciate what -- why they'd want to be interested in that, and why they'd want you to keep doing it. They probably would want you to stop doing it. But you know, I think we've learned a lot about that abstraction over the last 20 years.

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Back in the early '70s, there was something that was called the Quiet Revolution of Land Use Control. It was so quiet that most people have, to this day, not heard of it, and it certainly did not really change the face of the country in the way that some people thought it might. But there has been slow progress, and some of the developments of the '70s, such as the model land use code that the American Law Institute prepared, actually have had some effect on things like the Cape Cod Commission Act. And so some very basic ideas have really held on over that period of time. We're really going through a second revolutionary cycle, and I think it's potentially a very exciting one, and certainly the New England states have been very active. Massachusetts is getting ready, I think, to do something, and I'll talk about that at the end. But let me go to my themes. And I've enjoyed this little indulgence of thinking back over my career, in land use, which may be over as of tomorrow morning. And it's been a fun time (laughter), one way or the other.

But let's talk about the vision thing. Land use, by itself, is not a vision. We have to activate visions that exist in our communities. Cape Cod is an easy one. Most of my colleagues think, huh, this guy has the easiest job in the world. You know, Cape Cod, everybody knows what it is, everybody knows what it's about. It's just such an obvious sort of a place. Well, you get up close, there is, you know, at the fine scale, a lot of argument about what Cape Cod is. And who it's for, and how to manage it. And we've been through that very fine-scale conversation to try to articulate a reasonably detailed vision for the place. And it's got us fairly far, and we have to keep working on that vision, and making it more concrete. But you cannot get people interested in something like a regional land use agency by saying "This is a great agency. It's got all of these parts, and all of these committees, and all these functions, and it does all these things." People aren't really interested in that. And they only really force themselves to get interested in it when they get scared, and they think that you're going to tell them what color to paint their house. And a lot of people in the last few weeks have read this legislation because somebody told them that we were going to tell them what color to paint their house, and they wanted to see where that was, and it did motivate a certain amount of interest in the technical side of this. But in general, people are not interested in this business. They're interested in results. They're perhaps motivated by a vision of terrible things happening to their communities. And they see terrible things happening. And they don't so much envision them, as they wait for them to happen, and then they react to them. And generally too late. Or, they see good things about their communities that they want to hold on to. That they want to protect. And I think on Cape Cod we had both kinds of visions. We had horrible things happening, which everybody could see, and we have been through a tremendous boom, with tremendous destructive effect, and at the same time, we have well-preserved bits of Cape Cod that could inspire anybody to want to do land use planning, and do something about the whole place.

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I start with the vision thing because I don't think you can do this job unless you can get the folks you work for in your communities to agree about that. And to see something about their communities that is valuable to them, that they're really going to go to a lot of trouble about. And I think that probably where we've sort of failed the worst in this field, is in developing ways of helping communities to envision themselves. And I think that while Cape Cod is a special place, and an easy place to do this kind of work, relatively speaking, every place in Massachusetts is special in some way. And you know, I think it's been demonstrated in place after place that thought it wasn't special, that nobody cared about. That Lowell, for example, that people were probably ready to raze to rubble, is a special place, because enough people said it is, and because they could recognize those qualities that made it special, because they cared about it.

And so I guess I'm an optimist, when it comes to the idea of doing stuff across Massachusetts, and not giving up on any part of it because it's not the Berkshires, or because it's not Cape Cod, or not Franklin County. I'm not sure a lot of people even know where Franklin County is, but it has a reputation for being a very coherent place. That every bit of Massachusetts is important to the people who live there, or should be, and I think maybe the basic role of those of us in this business is to help people who live in communities to understand their potential as special places, and to want to care enough about them to really do this very difficult job.

Let me talk about the patience thing. Many of you in previous Ian Menzies seminars or other places have heard me talk about this process we've been through on Cape Cod. It's been an amazing process. It started, really more than four years ago. The legislative part of it has taken a solid three years to do, but it can't be rushed.

Where we started was by bringing people together from a variety of points of view and interests in the community and just asking them to think about the future. Tell us what they liked about it and what they didn't and try to get very specific, and articulate for us all of the things that they would like to see happen on Cape Cod, or not happen on Cape Cod. And we distilled out of that about 60 very specific things. And they're all kinds of things. They had to do with education and health care, but lots of them had to do with the land use issues that, you know, all of us deal with as specialists. We took that and, you know, once we knew what people wanted, we figured we could get a little bit technical. We brought in Don Connors, who's here today, from Choate, Hall & Stuart. He's a land use lawyer, an environmental lawyer. Said Don, "What do you do with these things? How do you put something together?"

We made a decision after some careful evaluation that instead of coming up with something incredibly broad and creative, we'd take something that worked great, the Martha's Vineyard Commission, and build on that model. And I think we made a very good decision and legally very economical in the sense that we could build on an

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investment of decisions that had been made over 15 years of experience with that commission and also something that was close at hand and, surprisingly, unfamiliar to many people but that we could make familiar to people. They could go over and take a look at Martha's Vineyard and see what it was all about. And so we built up this proposal for a new regional agency and the initial reaction to it, and Don was at a couple of the early meetings, was incredible. I mean I'm surprised that I didn't develop some kind of a tic or a sort of a, just a very kneejerk kind of a reflex, that every time a selectman walked into the room I would duck. Because I got hit more times on the head by selectmen and other local officials in the first few months of this thing than I care to remember.

And why? Because this very modest proposal was challenging some of the things that were very important to them about a concept of home rule and towns that could go their own way and take care of themselves. But the amazing thing is that over a relatively short period of time, and partly because I think that local officials were invited to take charge of this thing and do with it what they wanted, they decided that well, maybe they actually needed it, and they could learn to live with it. And in the end we had some, you know, you know, fairly incredible things. Unanimous votes in the Barnstable County Selectmen's Association endorsing a piece of legislation like this. Lots and lots of selectmen and other local officials going to Beacon Hill fighting for this regional land use legislation. It took time, though. The drafting process took months and months and then it was never quite good enough and we'd go back and try again. The meeting cycle was incredible. I mean, it just required night after night, town after town, and go back again and back again. And so the patience thing was absolutely necessary. If we didn't have it, we wouldn't be sitting here somewhat nervously waiting for the polls to close to find out how the whole thing came out. So be willing to make that investment. I don't think there are any shortcuts here, and I think there's a not so quiet revolution going on in Vermont right now that seems to be the revolution of towns waking up and saying, what's this new land use legislation? Who asked us about this? We don't like it. Take it back. And just a scary number of towns saying take this back. I don't think we'll have that experience on Cape Cod. No one is waking up today to say, what's this question on the ballot. There's been an opportunity for people to really absorb this proposal and also to affect it. I think that's been one of the reasons we're at the voting booths today.

Let me move on to the democracy thing. Most important, what I think one of the most ironic things that's come up in the last few weeks is there's been a fairly aggressive opposition campaign waged against the legislation by a fairly small group of people who like to exaggerate a lot. I was on a radio talk show the other night and somebody was very excited and called up to say that they'd studied this thing very carefully and they

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saw the model and, it wasn't the Martha's Vineyard Commission that they saw, it was Soviet Russia. And they went on and on about how it was pretty clear, look at these planning committees, look at all of these different, you've heard this before, you know what it is, it's Soviet style planning. And the person didn't really ask a question, you know, just went on and on, and finally there was silence. And the host of the show said, so, well, so what do you want us to do. And they said well, we want Mr. Carbonell to comment on this. And the only comment I could think of was, which I said, communism is dead. Everybody knows communism is dead; that's falling apart, this is real. What we're doing is part of this whole democratic movement that I got to see in Hungary and that you see in other parts of the Soviet system. The trend here really is to ask people permission. And I don't think Mr. Gorbachev has quite gotten around to asking people permission yet, within Russia, for his own presidency. But what we've done on Cape Cod, is every step of the way, ask people if this is what they wanted to do.

We asked them in November of 1988 in, I think, a fairly concise but accurate way whether they wanted a Cape Cod commission that would be a regional land use regulatory agency with the power to review developments of regional impact, with the power to designate special districts of critical planning, conserving, on and on. We asked them that question, and 76% of the people who voted in that very big election said yes, they wanted that. We went to the legislature and we spent over a year in a single session getting a bill which reflected the process we'd been through on Cape Cod. And further compromise and further negotiation. But a very strong bill came out. And that was a democratic process, and there were many opportunities for people to have an impact on that legislation. And then it came out and we went back to the voters today, and asked them, now that it's done and now that you've had a chance to look at it, and by the way, the last few weeks and last few months have been the busiest in the whole process. There have been more meetings, more forums, more talk shows, more supplements in newspapers. I brought part of my collection of the supplements in newspapers for you to see. I didn't bring the great, you know, the one that said "Tsar-like powers," (laughter) "mega million dollar Tsar-like," that's my favorite. It's a collector's item and I'm saving it. But it, in any case, has not been a Soviet-style election. It's an election in which you can say no (laughter), and if you say no, your candidate goes home and that's the end of it. But I think that if we know our community, if we understand it well enough to have been through this process, those of us who worked on this are probably correct in being optimistic that the large showing that we've already had reported today at the polls is a good sign, and that we will have not just a victory but a very solid victory. And it's a good thing, because if we win, we've got to go to work tomorrow morning and make this thing work.

I want to just conclude by sort of taking a look off Cape Cod and telling you a word or two about A Thousand Friends of Massachusetts, which has been mentioned to

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you more than once today. A Thousand Friends of Massachusetts is a club you should all belong to, and you're all invited to join. It is a club of people like you who care about the land and care about the future of Massachusetts and have some hope that we can do a better job. If we went down Greg McGregor's little report card there of Massachusetts land use law, while he didn't give it a grade, I think a C- would be very generous. A Thousand Friends believe that the report card could be improved and we can do better in Massachusetts, both on the little things, a piece of legislation here and there to correct some of these problems, and they're not perhaps that little, and on the big structural things. How do we involve towns effectively in this whole process of not just coming up with their own visions, but of coming up with the collective visions that we need to manage our regions and manage our state? How do we avoid a top down state local process when all of you who are local officials know that you know better than the state what's good for your community and what you're really looking for is an opportunity to have some impact and some effect on state policy. And if this system works, that's the way it will work. So I'd like to close on a sort of a recruitment note, and Katharine Preston is here and I'm sure she has the special identification cards, decoder rings, and all of the (laughter) things that come -- they're here, OK, great. And it's a requirement if you want your guest parking (laughter) ticket as well that you join the Thousand Friends of Massachusetts. Think of it as a discount on your membership. But let me just close on that note.

Thank you all and you know, we've got our fingers crossed, but I think we know our electorate. If we don't, the next conference that Ian has here is going to be very interesting. It's going to be what happened to land use legislation (laughter) in Massachusetts and what happened to Cape Cod. I'll be happy to come back from exile with the Sandanistas and (laughter)-- Last little joke, it's probably not even that funny, but, Paul Tsongas, somebody said we had to tell more jokes, and I think we're making a contribution here. Paul Tsongas obviously had a tremendous impact on the whole process on Cape Cod. He politicized the question of a Cape Cod Commission Act in a non-partisan way, but he made it politically important to people and that's why they were so excited about going to the polls in '88. A selectman who didn't like Paul Tsongas too much decided that anybody who was associated with that movement was a Tsonganista. (laughter) He sort of modeled on the Sandanistas and, you know, I do have a camouflage sort of military T-shirt that somebody gave me that says Tsonganista on it, that I've not been allowed to wear on Cape Cod, so far. Perhaps after today I can, but it, you know, it's almost a kind of a sobering thought that the Sandanistas are probably looking for some place to hide out right now, after their election, but I hope that's not the case. Thank you all very much.
(Applause)

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IAN MENZIES: Thank you, Armando. I'm down for closing remarks, and I'm going to make them very short, because I'm only too well aware, as a Scot by birth, of the speechmaker who rattled on for 80 minutes at a Burns supper, one of those events held every January 25th to eulogize the birth of the world renowned Scottish plowman poet, Robert Burns. After the speaker had finished boring the audience, at this particular Burns supper, he asked one of the Scottish crofters, in parenthesis, tenant farmers, what he had thought about his speech. Said the crofter, "Mon, ye certainly shortened the winter!" (laughter)

I think from what we heard today, we're on the right track. Especially if the Cape Cod Commission gets a ratification vote. We are really moving, I think, from everything that was said this morning, regional planning is moving forward. The question of empowerment is still, you know, a little etzo metzo.

The Commission for Growth and Change has strongly recommended reform of state land use laws. They will need our support and that support will have to come from every city and town. Local legislators have got to be made aware that we are unbelievably misusing our land. Land use laws must be made tougher, but also clear. Grandfathering, as it presently stands, is an abomination. It must be changed, as Gregor McGregor pointed out. I'm not sure as yet that the strategy to do all these things is clear. We shouldn't leave this meeting feeling, you know, that we know exactly what we're going to do, because I don't think we do.

I think there has to be, I hope, a lot of meetings between groups, like the Thousand Friends and others, and it's, it's just a long, hopefully shorter than that, but I see it still as a fairly long trail we've got to wind before we get to where we want to go.

And we must offer a vision, and I think that is what the Commission did in its report. I think this should be one of the goals of the Thousand Friends of Massachusetts, and one that they should keep in mind. And I'd personally like to see Frank Keefe's old growth policy committees reinstated at the grass roots. And as I said earlier, that Senator Tsongas really reminded us of the need to think of posterity, our children and our children's children. And really, there is not enough of that today. The key danger seems still to be greed.

We, the McCormack Institute, will publish the proceedings of this seminar/conference, as we have our previous ones. And I would suggest that all of you attending could perhaps use the contents to encourage your local newspaper or radio station to do a follow up piece on land use, offering yourself for an interview. If we want to see happen what is to happen, we will have to be aggressive and noisy, and the McCormack Institute will respond to any suggestions you have for a continuation of meetings such as this. But we would like some suggestions and perhaps it should come

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from the executive directors of those representing various groups that are attending here today.

In conclusion, I want to especially thank Kathleen Foley, Director of Administration and External Affairs of the McCormack Institute, for putting this logistically tricky meeting together, and also helpers Pat Mullen, Madeleine Pidgeon, Ruth Finn, Pat Pugsley, Brigid Wyse and Loreen Turner. And I really do want to thank you all, once again, for coming. I think it was an informative and stimulating seminar. Our cause is good. Drive carefully. Thank you.
(Applause)

